

WEAVING "EQUITY, BELONGING AND POWER/AUTHORITY" FOR PASIFIKA INTO THE LAW SCHOOLS AND UNIVERSITIES IN AOTEAROA NEW ZEALAND

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The report (Fofola na ibe) of the "Improving Pasifika Legal Education Project" concluded that the law schools in New Zealand have not served Pasifika peoples well. The reasons for this are diverse, and the range of possible solutions are complex. For many Pasifika peoples, the law school is inherently foreign to their views and values. Armed with the findings and recommendations of the report, this article uses the Pasifika weaving conception to reflect on the ways that law schools in New Zealand can ensure, through discussion, dialogue and action, that they are a just, equitable and welcoming place for Pasifika law students.

I INTRODUCTION

In 1936, Olive Malienafau Nelson became New Zealand's first Pasifika¹ law graduate when she received her bachelor's degree from the University of Auckland.² Almost 86 years later, the Michael and Suzanne Borrin Foundation funded a project entitled *Equity, Belonging, Power/Authority – How can law, policy and practice support Pasifika law students – Improving Pasifika Legal Education* (the "Improving Pasifika Legal Education Project") which, for the first time, explored Pasifika peoples' participation in tertiary education with a focus on legal education. The findings from this project

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1 People living in New Zealand who have migrated from the Pacific or who identify with Pasifika based on their ancestry or heritage.

2 Mele Tupou Vaitohi and Wiliame Gucake *Fofola na ibe – Improving Pasifika Legal Education in Aotearoa Report on Talanoa Research Findings and Recommendations: A Report for the Equity, Belonging, Power/Authority – How can law, policy and practice support Pasifika law students – Improving Pasifika Legal Education Project* (Michael & Suzanne Borrin Foundation, 1 December 2022) at 23.

revealed that, while the number of Pasifika students participating in legal education in Aotearoa New Zealand has grown considerably, Pasifika students are still "grossly underrepresented" in the legal profession.³ One of the questions that has arisen since the release of this report is: what does this report mean for law schools in Aotearoa New Zealand? This article explores this question and offers some suggestions.

With respect to Pasifika or Pacific Islander identities, the term "Pacific Islander" or "Pasifika" and the idea of "Pasifika identity" are deeply complicated. This issue is caused by the generality of the term "Pasifika" versus the specific identification of cultural groups or nations (for instance, Samoan, Fijian and ni-Vanuatu). "Pasifika" became a meaningful category only after it was first formally introduced in the education context in the mid-1980s through a Pasifika community-led initiative called Anau Ako Pasifika.⁴ Today, the term is used as a collective reference to a multi-ethnic heterogeneous group of Pacific peoples living in Aotearoa New Zealand. This group of people share ancestry, languages and traditions due to the small population sizes of these individual Pacific island nations and the closeness in affiliations between the people. In Aotearoa New Zealand they are often categorised under the general term "Pasifika".

It is recognised that these terms can carry different political and social meanings for different people. For example, the term has been contested by Pasifika scholars as homogenising,⁵ as it groups together Pasifika living in Aotearoa New Zealand, whether they were born in Aotearoa New Zealand or migrated. Moreover, it is not ethnicity-specific,⁶ and every Pacific island nation has its own uniqueness, which should not be ignored.⁷ Other Pasifika scholars have reconceptualised the term "Pasifika" to represent a symbol of unity rather than a homogeneous group of Pacific island people.⁸

3 At 23.

4 Airini and others *Success for all: Improving Māori and Pasifika student success in degree-level studies* (New Zealand Council for Educational Research, 21 December 2009); and Diane Mara "Anau Ako Pasifika: A home-based early childhood project for Pacific Islands families in Aotearoa/New Zealand" (1997) 3 *Early Childhood Folio* 29.

5 Others, like Professor Ka'ili, have also argued for the use of the term "Moana" and "Moana Oceania".

6 Sitaleki Finau, Si'ata Tavite and Daleki Fole Finau "Collective Label of People from the Pacific Ocean Proper" in Taiarahia Black (ed) *Enhancing Mātauranga Māori and Global Indigenous Knowledge* (New Zealand Qualifications Authority, Wellington, 2014) 166.

7 Linita Manu'atu and Mere Kepa "Toward Conceptualising Cultural Diversity: An Indigenous Critique" (paper presented to Joint Conference, School of Māori and Pacific Development and International Centre for Cultural Studies, Hamilton, New Zealand, 22 November 2002); Diane Mara *Implementation of Te Whariki in Pacific Islands Early Childhood Centres: Final Report to the Ministry of Education* (New Zealand Council for Educational Research, 1999); and Camille Nakhid "'Intercultural' perceptions, academic achievement, and the identifying process of Pacific Islands students in New Zealand schools" (2003) 72 *JNE* 297.

8 Tanya Wendt Samu "The 'Pasifika Umbrella' and Quality Teaching: Understanding and Responding to the Diverse Realities Within" (2006) 12 *Waikato Journal of Education* 35.

II THE PROJECT – THE IMPROVING PASIFIKA LEGAL EDUCATION PROJECT

On 30 October 2021, the Michael and Suzanne Borrin Foundation, in collaboration with Aotearoa New Zealand law schools, awarded a grant to Te Herenga Waka – Victoria University of Wellington (VUW) under the leadership of Luamanuvao Dame Winnie Laban, Assistant Vice-Chancellor (Pasifika), for a project to improve legal education for Pasifika in Aotearoa New Zealand. The Improving Pasifika Legal Education Project aimed to explore issues such as: where do Pasifika sit in terms of equitable outcomes in Aotearoa New Zealand law schools and the legal profession; where do Pasifika sit in terms of belonging; and where do they sit in terms of power and authority? The project was a research initiative intended to identify barriers to success for Pasifika law students and law practitioners, to find solutions and to explore the themes of equity, belonging and authority.

The intended outcomes were to increase the number of Pasifika in law programmes, the legal profession and leadership roles. The reasons in support of the project generally fell into one of three categories. These were: (1) the need for Pasifika representation in Aotearoa New Zealand's legal system; (2) the need to improve diversity among the student population and to bring a new perspective to the experience of legal education; and (3) an obligation, given the history of racial discrimination against Pasifika in the legal system and other parts of society.

Tackling the aforementioned issues, and ensuring quality interventions, requires a multidisciplinary approach in order to consider the intersection of wider socio-economic factors with the legal education system and the legal profession. To this end, the project brought together academics, students, graduates, legal practitioners and policymakers from across Aotearoa New Zealand to identify the barriers to Pasifika entering and succeeding in law schools and to recommend specific interventions for improved outcomes.

The research used a uniquely Pacific methodology of *Talanoa* (conversation).⁹ *Talanoa* methodology is used to find the narratives and give voice to the experiences of the people behind national statistics and the Pasifika quantitative data. *Talanoa* creates a space that enables participants to feel a sense of connectedness like that of a personal encounter in which people share their issues, their realities and aspirations, and that encourages more *mo'oni* (pure, real, authentic) conversations.¹⁰ *Talanoa* is also a qualitative data collection method suitable for getting insights into, and an understanding of, the problems and the lived experience of Pasifika law students and professionals. It results in a richer, deeper and more multifaceted understanding of the issues being examined in the research, creating situated knowledge about the challenges being faced by Pasifika.

9 See Mele Tupou Vaitohi "Using the Pasifika Talanoa Research Methodology in Equity Legal Research" (2022) 27 CLJP/JDCP 1.

10 Timoe M Vaioleti "Talanoa Research Methodology: A Developing Position on Pacific Research" (2006) 12 Waikato Journal of Education 21.

III FINAL REPORT – THE IMPROVING PASIFIKA LEGAL EDUCATION PROJECT

The report from the Improving Pasifika Legal Education Project was launched by the Rt Hon Dame Helen Winkelmann, Chief Justice of New Zealand, on 1 December 2022 at VUW.

The report's five chapters use statistics, literature and *Talanoa* findings to weave a picture of how and why Pasifika are not succeeding in law, with low completion rates and underrepresentation in the legal profession. The report aims to provide a platform for open discussion on how Pasifika can be supported to succeed and thrive in law. Clearly, Pasifika face a number of barriers to participation and success during their studies in law. The report shows that Pasifika students experience a lack of belonging in law schools, a conflict of cultures, issues with equity and racism, bullying and harassment, and a lack of belonging in the legal profession. The qualification completion rate for Pasifika students is less than 50 per cent for all law schools. Pasifika comprise only three per cent of all lawyers in Aotearoa New Zealand. There are a handful of Pasifika judges and a small number of Pasifika law academics; there has never been a Pasifika King's Counsel. All these statistics point to inequities and barriers within the system that do not recognise the value of Pasifika contributions to the general community.

The report also captures personal accounts of racism and exclusion. These stories highlight the notion that Pasifika feel themselves to be "outsiders" because they lack the insight and knowledge to understand the system and how the universities work. Pasifika law students and lawyers also encounter racism as they pursue their studies and their careers.

In compiling the report, the weaving process was used to reflect how different strands are interlaced to create a mat that embodies the different experiences of the participants in the research. The key findings from this research are summarised as follows.¹¹

A Pasifika in the Law

Pasifika identity is integral to how Pasifika interpret the world and how they are treated. Standing at the heart of their sense of self are values and beliefs rooted in the family, relational obligations and reciprocity. Their identity permeates all aspects of themselves, particularly at the relational level. Their identity also influences how and what they practise. Pasifika students' decisions to study law are generally closely linked to the law being a vehicle for change, both in the long term to help Pasifika communities and in the short term to help put students in a better financial position to support their families. Pasifika are master weavers, deftly creating pathways between the Pasifika world at home and the Western world at university or work. Law schools and the legal profession are demanding environments where Pasifika adopt survival mindsets to build resilience and perseverance; this makes

¹¹ The following discussion is adapted from the Executive Summary in Tupou Vaitohi and Gucake, above n 2, at 9–12.

high achievement difficult. Pasifika law students must often push themselves out of their comfort zones and assert themselves to succeed.

There is a culture of silence faced by Pasifika, who internalise the significant rates of bullying and harassment they encounter. As minorities focusing on being able to provide for their families, they are highly vulnerable in situations where they are bullied and unable to seek help. These were common statements across many *Talanoa*, but it is recognised that Pasifika are not woven with one strand. They are a richly diverse set of people.

B Educational Preparedness

The lack of educational preparedness of Pasifika for law school is deep-rooted and a significant barrier to increasing the number of Pasifika lawyers in Aotearoa. The *Talanoa* revealed that many Pasifika face difficult transitions from secondary school to law school. Pasifika students at university do not start from the same position as others. Going to a private or semi-private school can result in better educational and even social preparedness for law school, compared to education at low-decile high schools that are generally found in areas with large Pasifika populations. The Tertiary Data Warehouse data¹² from the universities in Aotearoa New Zealand has shown that the number of students coming to law school might be limited by the lack of University Entrance achievement at the lower-decile schools. For example, in 2014, 40 per cent of LAWS100 students at VUW came from Decile 9 secondary schools and 60 per cent from Decile 10 secondary schools. By 2017, that had shifted dramatically; over half had gone to Decile 6 and above schools. The lack of support for Pasifika high school students means they may make NCEA subject choices that do not support them in preparing for law school.

Many of the *Talanoa* participants reported that they are challenged by the sudden shift from the more structured and organised classroom environment of secondary schools to the more independent learning environment in law schools. Many Pasifika students are the first in their family to go to university; this severely impacts on their ability to understand the university environment. They often do not have mentors who understand the system and who can encourage them when they feel like they want to quit. Mature Pasifika students can be better socially prepared to enter law school but often struggle with returning to a learning environment. In contrast, younger students struggle with understanding the social and operational aspects of law school and are usually too shy to seek help.

C Lack of Belonging in Law Schools

One of the most common barriers identified by the *Talanoa* participants for their success in law school was that they found the law school environment to be unwelcoming. Most participants reported that law schools are spaces where Pasifika lack a sense of belonging, which creates a further barrier

12 University combined Single Data Returns (SDR) supplied as the official reporting to the Tertiary Education Commission and Ministry of Education, New Zealand.

to their success. *Talanoa* participants reported feeling like a "fish out of water" in law school, having to adopt new ways of thinking, social interaction, learning, interpersonal relations and even food. They feel disconnected from their communities and can struggle to find a new one at university. *Talanoa* participants commented that considerations of dropping out were not uncommon and even constant due to feelings of isolation. This lack of belonging means that Pasifika students find academic participation very difficult, and they are hesitant to ask questions for fear of being ridiculed. Law schools are often not inclusive and culturally competent, with some *Talanoa* participants reporting racist experiences with staff.

D Teaching and Learning

In the report, it was noted that the current pedagogical and learning environment settings within law schools do not support Pasifika students to succeed and sometimes even oppress Pasifika. Cultural competence must be developed within law schools so that staff understand the perseverance and resilience required of Pasifika students to survive law school. They need also to understand the cultural identity that underpins these students.

Pasifika Law Student Associations are undervalued for the support systems they provide Pasifika students and often carry out academic support that law schools should undertake. These associations are overworked and underfunded to support Pasifika at law schools. Many Pasifika students do not have access to existing networks to help them understand the operation of a law school, which is critical for success. There is also an absence of Pasifika content within the law school curriculum, which often reduces the impact and presence of Pasifika in the law to merely being mentioned in court judgments; many participants expressed a strong desire for greater incorporation of Pasifika culture into law school curricula. Connected to this is the lack of support for Pasifika to pursue postgraduate studies. Such initiatives are vital to increasing the number of Pasifika legal academics in Aotearoa New Zealand.

The report expressed the need for changes to law teaching practices. Law schools often discourage collective learning, but this is critical for Pasifika to succeed at law school by coming together to study and find support from others. There are often issues around understanding language, time management and planning skills that Pasifika students need when they enter law school. There is also inconsistency in the provision of support services for Pasifika at law schools across Aotearoa New Zealand. Some law schools are severely lacking in this area. The current provision of services is often based on what law schools *think* Pasifika students need instead of asking them what they need. It is also essential that these resources and support be highly visible to Pasifika.

E Conflict of Cultures

Pasifika culture and Western legal culture are often polar opposites. Pasifika are a communal people who prioritise service to the collective over the individual, whereas the dominant Pākehā culture privileges individual efforts and assertiveness. Language is a significant issue for Pasifika; many are second-language learners and have not been exposed to the academic or legal language

required by law schools. Many participants arrive at law school without support networks, having moved away from home. Pasifika culture – such as family, church and cultural practice – can make it challenging to balance legal studies and may hinder the achievement of high grades if not appropriately handled. Therefore, Pasifika usually juggle several competing priorities: balancing obligations to family and community against those to education or work.

F Equity and Racism

Pasifika peoples have different relationships with time and space to the Pākehā-dominated education system. The conflict of cultures creates an inequity in the power relationships in law schools and the legal profession, privileging the dominant culture and making Pasifika culture invisible. Diversity initiatives, such as alternative admission pathways, are critical to responding to these cultural and societal inequities. However, they can also be tokenistic and fail to fully align with the learning needs of Pasifika law students. The inequity is faced both by students and by the limited number of Pasifika academics, who are often token appointments, not supported or properly inducted, and expected to know everything about Pasifika. These crucial Pasifika staff are challenged by work overload, along with cultural obligations to the community and students, which is often not recognised within law schools.

Racism is a fact of life for many Pasifika in law schools and the legal profession. *Talanoa* participants reported being told that they should not pursue law, or that they could never make partner level in their firm, or being called racial slurs such as "lazy" or "stropky". Their experience of racism and marginalisation affects their sense of belonging. Some *Talanoa* participants reported that they felt a distrust from faculty members, and that they were often treated as people who are not worth teaching, or not worth getting degrees, or not worth getting positions that would better their future. Law schools and the legal profession are both fraught with elitism. Pasifika students often experience rampant racism both directly and indirectly. Some student participants said they felt ignored and treated as second-class students based on their admission to law school, even when there are no special Pasifika admission programmes. This is amplified due to Pasifika cultural norms of internalising racism and not complaining. *Talanoa* participants reported that they find racism difficult to prove due to its insidious nature and that they often rationalise incidents as their own fault. Pasifika cultural priorities to support family make them particularly likely not to address racism directly because of fear of negative consequences for their job security.

G Bullying and Harassment

Relatedly, the report shared shocking stories by participants of bullying and harassment within law schools and the legal profession. Although this problem is not limited to Pasifika, this is more problematic for Pasifika because of their culture of silence. Further, most participants did not feel supported to come forward with their complaints for reasons such as fear of the impact that it might have on their careers.

Many Pasifika students feel they are treated harshly by academic staff and their peers due to their race. These experiences continue in the legal profession, where many practitioners share experiences of being bullied by supervisors and other members of the profession. Pasifika are often measured by preconceived ideas of Pasifika people, as portrayed by negative media reports and statistics. These ideas amplify bullying and harassment. Academics are also not immune to these issues, with Pasifika academics reporting bullying and harassment from other staff.

H Lack of Belonging in the Legal Profession

The legal profession in Aotearoa New Zealand can be an unfriendly and often hostile environment for Pasifika. Many Pasifika legal professionals experience debilitating imposter syndrome due to historical stereotypes and cultural factors such as the great emphasis on grades, which tend to discount Pasifika lawyers' natural oratory and people skills that they can bring to the profession. The impact of and susceptibility to imposter syndrome is compounded by the clash of Pasifika values with the norms of mainstream working cultures. Many *Talanoa* participants found it difficult to bring their whole selves to work. Pasifika lawyers feel expected to conform to the dominant culture, relinquishing their Pasifika heritage.

The legal profession is monocultural, with deep-rooted systemic privilege. Pasifika comprise only 3.3 per cent of the legal practitioners in New Zealand.¹³ There are a small number of Pasifika judges in the country and an even smaller number of Pasifika legal academics.

The profession privileges the elite who have connections and personal advantages. Pasifika often lack these advantages and do not have the same support networks to succeed in the profession. Many participants felt that once they began to master law school, the rules of the game changed when they entered the profession. Pasifika often feel that they must assimilate and be as "white" as possible to succeed. The profession privileges individual achievement and assertiveness, which are averse to Pasifika values of collective effort and maintaining relationships. Pasifika are disadvantaged socially in being unable to connect with colleagues. Participants observed the profession to be filled with elite club-like practices, referred to as a "white man's club".¹⁴ These norms and traditions favour masculine networks. Some participants viewed the profession as "nepotistic", "hierarchical" and "highly conservative".¹⁵

While many in the profession promote diversity, there is a considerable gap between the goal of diversity and actual practice. Most participants revealed that employers continued to hire mainly Pākehā on recommendations from judges, other partners or senior lawyers. These underlying advantages due to socio-economic background reflect the elitism within the profession. Even knowing

13 Geoff Adlam "Diversity in the New Zealand legal profession: At a glance" (2019) 932 LawTalk 61 at 64.

14 Tupou Vaitohi and Gucake, above n 2, at 61.

15 At 61.

a Pasifika lawyer may not provide the same network, as many participants expressed how their recommendations are not taken seriously by their employers. There are also issues in which current hiring practices privilege grades and do not provide for equity. Such practices do not recognise or value the interpersonal skills of many Pasifika law students, which are critical for client and professional relationships.

Most *Talanoa* participants expressed the view that, given the high rates of mental illness and experiences of imposter syndrome, improving inclusivity and openness within the profession would have far-reaching positive effects on Pasifika.

IV RECOMMENDATIONS TO LAW SCHOOLS AND UNIVERSITIES

To address these barriers, the report put forward 13 noteworthy recommendations. These recommendations focus on driving change across law schools and universities, the legal profession and government areas where there are known problems at play. The report makes six recommendations to universities and law schools about how they can support Pasifika students to succeed in law. These recommendations include setting aside a number of discretionary places for Pasifika law students, putting in place culturally appropriate support services and establishing a pre-law programme for Pasifika learners. The report states that educational practices are inflexible and presently unsuited to Pasifika students. Pasifika students should not need to fight to study law. They should not be bullied or harassed, or have to engage in a curriculum that does not represent them and where they do not have sufficient support. The report calls for the diversification of the legal system: for society to flourish, it must be inclusive. The legal system is an essential part of any functioning society. Currently, the legal system is not inclusive of Pasifika. People coming into contact with the justice system are facing multiple stressors and sometimes trauma, and obstacles to overcome in order to participate in their community. Given the overrepresentation of Pasifika in the criminal justice system, it is even more important that they can be represented by someone who is aware of their culture, values and life experiences, and someone they can trust and have confidence in. This can translate into confidence in the wider legal system.

The report's approach to its recommendations centres on the need to address the discriminatory factors that make Pasifika feel unwelcome in law schools and the legal profession. This is premised on the understanding that, before greater progress can be made in supporting Pasifika success in law schools and the legal profession, there are obstacles that need to be removed. The report proposed that all relevant stakeholders create an environment that acknowledges and respects Pasifika ways and worldviews. It is believed that this is key to building a just society in Aotearoa New Zealand.

V ***HOW TO WEAVE "EQUITY, BELONGING AND AUTHORITY" INTO LAW SCHOOLS***

Weaving involves creating a pattern where one can follow directions.¹⁶ Part III pulled together the strands that reveal the significant barriers within legal education and the legal profession that inhibit Pasifika from joining these sectors and succeeding within them. The barriers to success for Pasifika law students and legal professionals were the main concern of the project and of the series of *Talanoa* meetings held throughout Aotearoa New Zealand. Following these meetings, and after examining the *Talanoa* data gathered through the research, findings were made that detailed how Pasifika students navigated a colonial system while facing the repercussions of deficient thinking. The barriers identified in Part IV of this article are all part of the problems Pasifika face as members of Aotearoa New Zealand society. This Part considers the solutions.

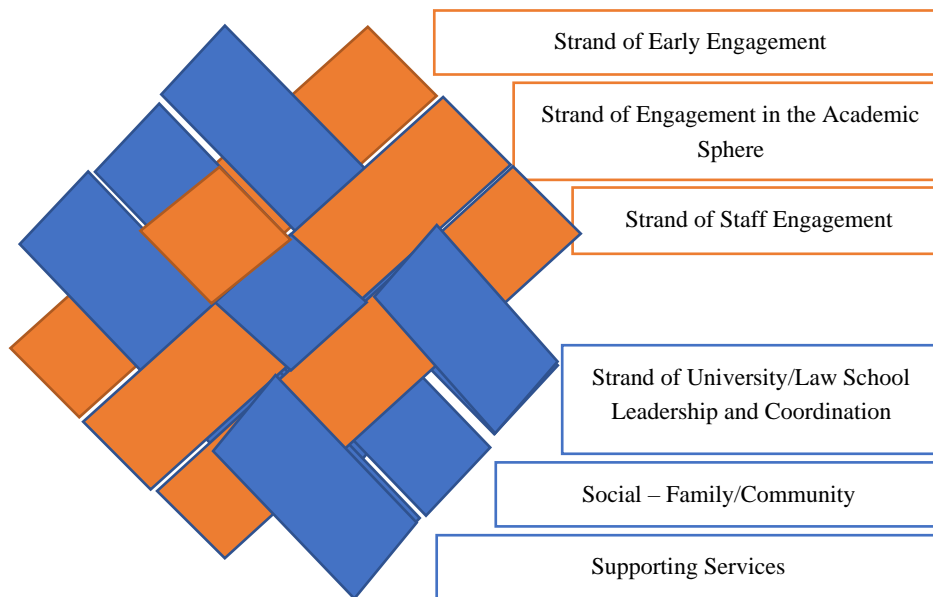
There is a well-known Tongan expression and metaphor, *fofola e fala kae talanga e kainga* (rolling out the mat so the family can dialogue). The need for a mat signifies the basis for bringing about change for Pasifika in the law. During the *Talanoa* series, all the participants were viewed as weavers, embedding in each strand the barriers they faced in legal education and the profession. These strands combine to reveal the fine mat that is the pathway to reducing barriers and increasing equity, belonging and power.

Like the creation of a fine mat, weaving is a powerful practice: individually, a single strand – a single factor – can make limited contributions to Pasifika law students' academic or professional success. But several strands woven together can create systemic change. The findings of this research show that law schools should change and update their practices to address the needs of Pasifika students so they can thrive in the law school universe. This research reveals that, while there is a real need to increase the number of Pasifika lawyers in Aotearoa, there are many challenges. Reflecting on the barriers that students face in law schools, the workforce and the legal profession, the *Talanoa* data opens a Pandora's box of emotions, experiences and issues that some people may not fully understand. Nevertheless, as a society we can take on these issues as if they were our own. We can pledge to weave strategies, policies and practices to promote equity, authority/power and belonging, and bring about changes for Pasifika. It is in everyone's interests to have more Pasifika in the law schools and legal profession of Aotearoa New Zealand. It is in everyone's interests that all necessary steps be taken to achieve that goal.

Thus, to improve Pasifika legal education and student success, a model has been developed where student belonging is the main focus.

16 See Mele Tupou Vaitohi and Wiliame Gucake "Weaving Pasifika Views into the Forms and Practice of Legal Education in Aotearoa New Zealand" (2022) 28 CLJP/JDCP 61.

Figure 1 *Fala lalanga ma'ae Ngaue Fakataha*¹⁷ – Weaving model of student engagement and success in law.



The weaving model embodies the following strands.

A Strand of Early Engagement

Engagement to promote belonging should begin as early as possible and continue throughout the student's degree.

The report shows that it will be helpful if a student's engagement begins early, with institutional outreach interventions, and extends throughout preparing for and entering law school at primary, intermediate and secondary school. Pre-entry and induction activities will facilitate opportunities for students to build social relationships with current and new students and staff members, and will ensure that they have enough information to assess whether a particular course will be relevant to their current interests and future aspirations. Engagement helps to bridge the social and cultural divide that disadvantages many Pasifika law students.

17 A Tongan expression which means a mat woven for cooperation or collaboration.

Outreach initiatives should be provided to Pasifika communities. These should involve academics and students and focus on the development of consciousness among high school students and on the transfer of information concerning law-related professions. Outreach initiatives may include:

- (i) resources devoted to offering better support for the pathway from secondary school to law school;
- (ii) retention programmes to help Pasifika students succeed in law school;
- (iii) assessment measures geared to identifying needs and academic potential in order to support students' transition to law school;
- (iv) support for Pasifika pathways; and
- (v) tutoring and mentoring high school students, along with admission support and community outreach.

Outreach programmes could provide schools with clear academic support and tools to help students make the best choices. Any subject-choice programme should aim to provide better educational outcomes for all students. Māori, Pasifika and lower-decile secondary school students are at risk of making inappropriate subject choices if their academic potential is not recognised early enough and if they do not receive clear guidance about the best course choices. Students with aspirations as well as the potential for law school need to engage actively in shaping their academic pathways through secondary school. One aspect that would help Pasifika students would be to provide some strong recommendations and advice on which subjects will be helpful for their entry-level law papers. Recommendations including Level 2 or 3 of heavy text analysis subjects like English, History or Classical Studies would be particularly helpful.

Additionally, students and their parents will benefit from clear information and tools to help them identify the most appropriate subjects, standards and pathways within the NCEA system. Law schools or universities could provide initiatives like a "Guide to Law School" to help Pasifika school leavers navigate university resources and tools, such as the university online tools, and enrolment, which could help their progression. Workshops around assessments and exams to prepare students for their compulsory courses could be offered. For instance, most of the Pasifika students in law schools are working hard to learn a new culture and a new language, and they are looking for resources to gauge what is asked of them in their assessments. Hence, they will benefit from model answers or platforms that show them how to answer questions and to navigate the expectations behind these assessments.

Further, the strong connection between family support, adjustment and persistence suggests that involving the family in the law school experience may be beneficial. A community-based, integrated, holistic and inclusive approach to law school will support the above recommendations. It is crucial to help students experience a sense of belonging in law school. One way to accomplish this is to embed Pasifika knowledge and culture(s) within the law school programme and curriculum. We encourage the continued growth and improvement of the Pasifika Student Support Centres, the Pasifika programmes and consultation with Pasifika communities, law professionals and students, as they bring knowledge and expertise to the table, which typically those who are not Pasifika cannot provide.

Universities and law schools recognise the enormous impact that student organisations have on law school culture and the work they do that is under-resourced and unpaid. Much of this work, particularly the academic and holistic support, is the responsibility of law schools and could be shifted to them to provide it accordingly. This shift does not displace law student association roles, as they will continue to advocate for and support Pasifika students. Given the inequities Pasifika already encounter, this work is difficult to manage with family and academic obligations, yet it is needed. Law schools can support and resource Pasifika student organisations with funding for their initiatives and executive positions.

B Strand of Engagement in the Academic Sphere

Law school should be considered as an institution of academic, social and professional services spheres. Focusing on these spheres can advance Pasifika students' sense of belonging and improve their academic success and ability to graduate and obtain employment. The academic sphere is of primary significance.

Engagement through student-centred learning and teaching strategies will facilitate staff and student interaction. It will enable students to develop academically and university staff to develop a better understanding of their students. This was especially important during the time of COVID-19, when many Pasifika students spent less time on campus.

Most law schools have provided services targeted at Pasifika students to develop their knowledge, confidence and identity. These include services helping Pasifika students to make informed decisions about law school, subjects and courses, and to have realistic expectations. At the same time, while many Pasifika students are now aware of these services, the availability of these services is still not sufficiently visible. Many student participants reported that they were unaware of the available services and do not use them.¹⁸ Law schools should deliver these services with complementary support via the academic sphere rather than relying on students accessing these services autonomously.

The key goal of the following recommendations is to improve Pasifika legal education in Aotearoa New Zealand by: (1) creating an environment that supports resilience; (2) supporting academic relevancy; and (3) engaging students, parents and the community in positive, supportive relationships.

Universities need to do a great deal more pastoral work. Many young Pasifika are having a difficult time. While some students may be thriving, many Pasifika law students lack resilience, independence and self-discipline. Universities and law schools can reinvent themselves as places where young people learn academically and "come of age". The understanding that universities and law schools provide a "rite of passage" is promising, and this idea should be taken seriously. It is key

18 Tupou Vaitohi and Gucake, above n 2, at 77.

to the revitalisation of universities as cultural and spiritual institutions, rather than continuing the slide towards simply existing as training colleges for corporations, government agencies and the profession.

Universities and law schools could develop an enabling programme for newly arrived Pasifika law students to help improve their familiarity with their new environment by introducing Pasifika students to Pasifika and mainstream services both on- and off-campus. Law schools can provide greater financial assistance for students by helping them find affordable accommodation and helping with arranging transport to university. The *Talanoa* participants spoke vehemently of these areas as barriers to their success at law school.¹⁹ The enabling programme could also encourage family members to accompany students to their law school. Many law schools or student associations have held welcome evenings for first-year Pasifika law students or welcome services. Such initiatives can be encouraged and financially supported. These events create buy-in and understanding within the families of Pasifika law students and show how they can best support the success of their loved ones. Law schools could provide a Pasifika Support Scheme that provides Pasifika law students with access to a Pasifika academic advisor to mentor these students, act as a primary contact and provide academic and pastoral support; an administrator could support this advisor.

Universities could also develop support through an academic programme that consists of first-year elective topics for Pasifika students. While this may be run by other parts of the university, it should also be available to Pasifika students studying degrees other than law. This programme could involve small group tutorials that focus on developing academic skills. As the class would only involve Pasifika students, it would provide support by ensuring that students have a culturally safe space where these students are the majority in the course. It would also allow Pasifika students to develop a network of Pasifika peers.

C Strand of Staff Engagement

The proficiency of staff to engage with students should be developed so that they interact well with each other. Law school staff should act in partnership whereby staff are alert, responsible and responsive in order to ensure student belonging, since that is fundamental and essential to their success.

Developing engagement opportunities throughout law school and across the student life-cycle requires the involvement of most university staff, not only that of a few committed individuals. If the notion of "engagement" is part and parcel of the law school vision, it will be reflected in key strategic documents and endorsed by senior managers. To enable all staff to engage with all students, the law school could consider how policies and procedures can ensure staff responsibility through recognition, support and development, and reward. Such changes may include:

¹⁹ At 26.

- (i) reviewing staff recruitment strategies to ensure that law schools integrate responsibility for providing opportunities for engagement into job descriptions and selection processes;
- (ii) updating induction and training for new staff and continuing professional development;
- (iii) providing resources and guidance; and
- (iv) providing mechanisms to recognise and reward staff who excel in engaging students and offer those staff appropriate progression opportunities.

It is important to ensure that culturally competent practice be demonstrated by academic and professional staff which fosters a safe cultural space for Pasifika students. The lack of cultural competence is a significant barrier to incorporating Pasifika knowledge into the law curriculum. The teaching of Pasifika legal issues from a Pasifika perspective, and the teaching of Pasifika law, are best done by a Pasifika teacher. Law schools could introduce this shift by discussing different learning strategies and introducing students to critical race theory to challenge students' worldviews.

Teaching Pasifika legal perspectives could be developed by drawing on critical race theory and whiteness studies. These frameworks provide insights into why Pasifika knowledge has been excluded from the Aotearoa New Zealand university curriculum, including legal education. Pedagogic approaches informed by critical race theory require students to critique the rationales that justify the continued marginalisation of non-Eurocentric knowledge. This teaching includes becoming conscious of *palagi* students' racial privilege. Law school staff would also benefit from programmes that challenge attitudes and behaviours that may unwittingly perpetuate Pasifika disadvantage.

In the report of the Improving Pasifika Legal Education Project, Pasifika academics mentioned that colleagues undertaking research resulting in publication receive greater recognition and reward within the law school than those who strive to improve law students' experience.²⁰

Providing opportunities to improve students' academic self-efficacy and skills, including writing and time management, will ultimately support academic, social and personal-emotional adjustment. Law schools could develop programmes that provide social and academic support prior to students commencing their studies. This would help students to become familiar with the university and law school environment. This could include bridging courses between high school and law school as well as pre-law preparatory courses at university. These programmes could focus on helping students to develop skills that are relevant to legal study, including research skills and writing skills. The support for students could be adopted as a whole-of-university approach so that it is not only the responsibility of the Pasifika units alone. Entry standards could align with the existing support mechanisms in the law schools.

For instance, the law school could consider establishing a legal writing program for Pasifika law students with a coordinated course staffed by a faculty member whose primary teaching and

20 At 58.

scholarship interests are in legal writing. Further, developing a handbook for common English expressions used for communication in the legal profession would be beneficial for Pasifika students.

Using the concept of *Tuakana*,²¹ Pasifika staff and professionals could form groups and meet with other professionals or staff members from other law schools. This would provide a safe space to discuss the issues they are facing and the common themes from their experiences. They could learn and share best practices and lessons learned to support each other.

Those who possess the required skills, knowledge and passion for developing innovations leading to safe learning environments for their Pasifika students and staff should be promoted as champions within the law faculty. Such efforts should be recognised and rewarded in staff professional development plans and performance reviews.

First-year law students should be taught about the historical issues that Pasifika faced and the laws and history of colonisation in the Pacific. This shift would also incorporate the legal and socio-political history of Pasifika in Aotearoa New Zealand, like the Dawn Raids. These learnings acknowledge the importance of educating future lawyers about the historical legal constraints imposed on Pasifika peoples. Such knowledge is vital to provide context to the inequity that persists in society and the legal profession. Without knowledge of the restrictions imposed by the government on Pasifika, students may believe that Pasifika simply seek worse outcomes because they do not try hard enough.

D Strand of University/Law School Leadership and Coordination

At the university and senior level, law schools should take responsibility for advancing and maintaining a culture of belonging and creating the necessary infrastructure to promote student engagement and success.

Law schools and universities should accept their responsibilities to offer a legal education that results in equitable outcomes for all students, including Pasifika, who face the earlier-identified barriers to studying law and entering the profession. The first step is to develop a law school plan for long-term educational equity for Pasifika students. An institutional strategy or mandate is vital to support Pasifika staff and to improve the way the law school systems perform to ensure these students gain the skills, qualifications and knowledge they require to achieve success. In many law schools in Aotearoa New Zealand, the commitment to support Pasifika staff and students often depends upon the Dean's motivations and the law school's management. Formalised visions with clear, tangible goals that law schools can achieve (and measure) will ensure sustainability and accountability.

In order to adapt, universities need to invest more effort and resources in looking after Pasifika students who arrive at university and law school without having been adequately prepared by their

21 An integral part of traditional Māori society, which provides a model for buddy systems where an older and more expert brother or sister helps and guides a younger sibling.

high schools. We need to understand that completing school with University Entrance is no longer a reliable indicator of university readiness. Literacy, mathematical skills or any kind of disciplinary thinking can no longer be assumed, even for students with successful results in the relevant subjects.

The report of the Improving Pasifika Legal Education Project shows that if law schools recognise that most Pasifika law school students are the first in their families to enrol in the study of law, they will understand their struggle in law school. Once Pasifika students enter law school, they cannot draw on their families' experiences in terms of an ethos and outlook focused on the law. At the same time, they are confronted with a monocultural and privileged environment; they may not have had the social advantages of most of their *palagi* peers that make the law school journey easier. Even though they are keen to work hard, they are at a decided disadvantage and have some catching up to do.

For most Pasifika law students, entering law school is entering into a competitive environment that is unfamiliar, where they are often significantly out of their comfort zone. Historically, Pasifika students have often been excluded by institutional racism and a lack of opportunity based on class and equality from various institutions. So, it is incumbent upon law schools to elevate their learning environment. For instance, law schools have traditionally focused on the written word and judicial opinions. However, law schools can employ alternative (and creative) ways of conducting assessments to cater to all learning types. There is also a great emphasis on grades, which tends to discount Pasifika students' natural oratory and people skills that are essential in advocating for and working with clients – admittedly, a critical element of the legal profession.

As law schools advance and encourage an environment that is more mindful, one that moves above and beyond a scarcity mindset²² that is often elitist, the emphasis can be placed on a collaborative way of learning and not only on individual achievements. Such shifts are mutually beneficial for both the law school and the law students. Many *Talanoa* participants emphasised a desire for more collaborative learning methods due to their upbringing.²³ Furthermore, such shifts would prepare students for the real world, because in the workforce employers will expect them to be team players. We do not discount the individualistic and competitive environments in law firms. The point is that junior lawyers do not start on their own; they need to work collaboratively under a supervisor with team members and clients. Hence, there is a fundamental disjunction between law schools' pedagogical focus and the profession's operational requirements. Senior leadership at law school can go a long way to help in shifting this institutional culture and work to improve the dynamics, norms and beliefs.

In any special admission process for Pasifika students, in addition to ability and academic skill, weight must be given to the available evidence of student motivation and drive, as this will influence

22 A mindset that is characterised by a belief that law school is so special that people have to compete to get a place in law programmes.

23 Tupou Vaitohi and Gucake, above n 2, at 57.

their successful completion of the law school programme. These considerations will help to support student motivation and determination, as universities provide an environment that bolsters students' motivation to complete law school.

It is important to note that there is a substantial equity rationale for affirmative action for Pasifika students. Part III reviewed these equity issues. If an alternative pathway takes into account student grades without providing proper support to help them thrive, Pasifika students may inadvertently be set up to fail. If they have had a hard time in their first year, their second year will likely hit like a hurricane. A pathway will need infrastructure that provides an environment for Pasifika students with adequate (extra) support so they can succeed.

Universities should consider developing a law clinic plan to provide opportunities for Pasifika and other students. These opportunities would allow students to analyse how the legal system works in practice, develop their oral and written communication skills by working with real clients, build mentoring relationships with students further along with their studies, and develop networks with crucial law agencies. As many Pasifika students are motivated to help their communities, their involvement in the clinic would allow students to understand how their studies contribute to social justice.

Universities should recognise that Pasifika academics often carry out more service than they are contractually obliged to do and are acutely vulnerable to being in this position. For Pasifika academics, there is a lot of invisible "cultural labour" beyond that which they are contractually mandated to do. The nature of their role, and their relationship with students, often means in general they have no choice and must go above and beyond for students. If they are not supported, eventually burn-out will occur.

Further, it is clear from the report that having a space for Pasifika students is also essential, as it facilitates student networks. These networks are the critical support that Pasifika students offer to each other, whether they are at the same level of law school or are senior students providing support to junior students, to help best navigate their studies. Networking with other Pasifika students helped many of the *Talanoa* participants to gain a feeling of belonging, bringing together those who understood and shared common issues.²⁴

VI CONCLUSION

The way forward is:

- (1) To establish an office or education unit dedicated to enhancing education equity for Pasifika law students. This office could work to coordinate, extend and complement student support programmes, offices and existing opportunities, focused on enrolment, retention, programme success and degree completion. The establishment of this education unit within each law

²⁴ At 60.

faculty would assist Pasifika law students with academic skills, provide pastoral care and serve as a place for the Pasifika law student community to find practical support. This office could work closely with the law faculty, and academic staff members could lead it, supported by an administrator and a team that includes paid student representatives. Such an office could partner with a central university Pasifika office to facilitate links to Pasifika communities.

- (2) To provide a space and place for Pasifika students. To this end, law schools can create vibrant spaces for law students to advance their unique needs and contributions to the law school community. They can do this by identifying and creating a meeting space for law students that will provide access to mentors and resources to help the students achieve success. The law school can facilitate a network for graduate students working and researching in the Pacific islands to collectively network and provide resources (for example, to learn a language or research etiquette, or to travel). Creating a safe space for Pasifika law students to explore issues that may adversely impact on their studies will allow students to explore and resolve conflicts in a non-judgmental environment. These spaces are essential, and the law school's architecture and design can also incorporate these elements to reflect the student communities.
- (3) To develop cultural competence across the law school. To this end, the Pasifika staff of the unit can offer culturally appropriate sessions to enable students to discuss identity issues and their experiences of stereotyping, racism and sexism. All academic and administrative staff should invest in training and development, as they all play a part in a student's law school experience. This support is even more critical for those with extensive direct contact with students, including tutors and course advisors.
- (4) To reinforce and develop the Pasifika student identity. Pasifika units could invite prominent Pasifika to share their indigenous knowledge about their communities. Such events would reinforce and support law schools to develop their Pasifika identity. The events would help Pasifika students to establish that connection with their identity and embrace what they stand for and who they are.
- (5) To give visibility to these spaces and support services. To this end, the Pasifika unit can proactively promote and distribute information to create awareness amongst students about the available support services, online tools and the enrolment process to ensure they progress. There are many ways to do this; however, for Pasifika students to engage requires seeing someone in person if possible. During the COVID-19 lockdown, many Pasifika students and their families were affected. One law school with a dedicated Pasifika team took it upon themselves to make a telephone call to individual Pasifika law students and sent text messages to let them know they were there if they needed help. Such efforts model the support required for Pasifika at law school. Regarding support, engagement needs to be transparent, and staff who are honest with Pasifika law students about their options will help. Pasifika law students want to feel as if they are included and part of the community.

- (6) To staff the Pasifika support unit with a person who has a legal background in a Pasifika advisory role. This person will be able to provide critical insight and support for other students. The position could be filled by a final-year law student undertaking the role part-time during term time. Law schools can also attract candidates by supporting postgraduate studies or by funding professional legal studies fees for admission to the Bar.
- (7) To provide tutor roles and to ensure that law students are considered for these roles on the basis that they have cultural competence in addition to their academic ability. It is recognised that, even though it would be preferable to have Pasifika law students as tutors, this should not be a barrier where not available. It is vital that proper training and support be available for cultural competence. Law schools and their Pasifika units could also develop partnerships and liaise with the Law Society and the Pacific Lawyers Association to organise legal professionals to provide tutorials and workshops for Pasifika law students.
- (8) To make services, such as tutorials, available during school hours and not after-hours, as this may deprive mature students of their benefit due to family and other obligations.
- (9) To provide key resources for Pasifika law student cohorts in Aotearoa New Zealand. Pasifika law student cohorts in Aotearoa can be school leavers born in Aotearoa New Zealand, mature students or students from the Pacific islands. Many, if not most, of these students come from such diverse situations that it is important to provide a range of options to cater for all, as many of these students come from economically deprived communities and may need to work or be at home to look after their young children.
- (10) To name important Pasifika initiatives and programmes to establish connection and to empower students. For example, one law school named their Pasifika support team FOLAU²⁵ to signify their journey with students. Regarding support, the Pasifika unit within the law school could provide pastoral and academic support focusing on the needs of the students and their compulsory courses. Student needs could be gauged by running a student survey at the end of the semester. This information could shape and inform the support law schools could provide.
- (11) To provide sufficient and accessible funding/resources for the support of Pasifika by law schools. Funding and time are the two most essential resources identified in the *Talanoa* research. Holding funding centrally for Pasifika initiatives is a challenge, as it leads to the Dean having to bid to finance them. To be cohesive, it is essential that funding be divided up and delegated to the school level. The tendering for funding on a yearly basis creates uncertainty in the provision of support services and makes such initiatives vulnerable.
- (12) To increase Pasifika representation in the law faculty and in a manner that encourages them to play an integral role in the law school curriculum. For academic staff members, time and energy is often the scarce resource rather than money. It can be overwhelming for staff to balance advocating for cultural shifts, providing holistic support and delivering academic

25 "Folau" is a Tongan word for "voyage".

teaching and research. To an extent, the holistic support could be delegated to an actual position for Pasifika staff to improve visibility. This position could also be a part-time role. For Pasifika academic staff, most are just starting their career and have demands on their time. It will not be fair to put everything Pasifika onto one or two academic staff in the faculty. Cultural competence is everyone's responsibility, which includes staff and faculty. Hiring more Pasifika academic and support staff provides eyes and ears on the ground. Such positions and initiatives are an excellent start and could be central points of contact for students. Staff who are aware can make a massive difference in the experience of Pasifika law students.

The whole-of-university approach requires more than simply providing academic and pastoral support. There is a need to incorporate Pasifika knowledge into the law school curriculum and pedagogy. However, Pasifika students continue to report that Pasifika perspectives and knowledge are missing from the university curriculum or that they are marginalised. For Pasifika students, including Pasifika perspectives and expertise will contribute to the creation and reinforcement of identity, which will increase motivations for attending university and assist in retention. A Pasifika pedagogy will also benefit all students by providing training for future lawyers working with Pasifika communities. This approach develops students' understanding of the social effects of the law and facilitates their appreciation that knowledge is socially constructed, pluralistic and mediated by power relations. It will also help students to become reflective learners and to challenge their cultural assumptions. In this regard, it is necessary to include both Pasifika legal issues, or how the state legal system impacts on Pasifika, and Pasifika understandings of law. These are bodies of knowledge that are largely absent from Aotearoa New Zealand's legal education. Pasifika legal issues are generally only covered in electives. Even then, they are often confined to a specific elective focusing on Pasifika and the law, rather than integrated throughout the curriculum. One way is to incorporate both Pasifika legal issues and Pasifika law into the core component of the legal curriculum (for example, in examining the impact of criminal law on Pasifika, as well as the impact of colonial law on Pacific islands' criminal law). This approach will shift the perspective and give students a deeper understanding of the co-existence of Pasifika and non-Pasifika law, and will encourage them to reflect on how the law can be a tool for subjugation. It will also provide a contextual and critical analysis of the differential impact of the law, such as the overrepresentation of Pasifika and other minorities in Aotearoa's criminal justice system, transcending simplistic, victim-blaming explanations.

The incorporation of this content could complement and support the work currently underway for the "Indigenising the LLB Project" and the resolution by the New Zealand Council for Legal Education for tikanga Māori to be incorporated into the LLB degree, and Māori customary law to be a compulsory subject.

Managing and promoting student engagement at the senior level of the law faculties will enhance concentration and foster a sense of belonging, retention and success for Pasifika students. Outcomes include:

- (i) building student engagement and a sense of belonging, retention and success as it relates to the law school's strategic plan, and aligning law school policies with this priority;
- (ii) providing leadership that explicitly values students' engagement and belonging throughout their law studies across the student life-cycle, and that promotes staff responsibility to engage with the students and nurture a culture of belonging; and
- (iii) developing a coordinated, evidence-informed strategy underpinned by monitoring programmes and student behaviour with explicit indicators and measures of success.