

EMBEDDING CULTURALLY SAFE PROCESSES, PRACTICES AND PERSPECTIVES IN THE PROGRAMS AND ACTIVITIES OF THE UNIVERSITY OF QUEENSLAND PRO BONO CENTRE

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Much has been written on Aboriginal and/or Torres Strait Islander law students' experiences in the classroom. Less has been written on their experiences in extracurricular programs. We undertook 17 interviews with staff, students and partners who work within and alongside a Centre that facilitates student and staff pro bono work. The aim of the research was to investigate what cultural safety means and how culturally safe practices could be embedded in pro bono projects. We found that what was needed was genuine, meaningful engagement with Aboriginal and/or Torres Strait Islander peoples, communities and organisations. Participants said that such engagement should involve deep listening, truth-telling, and relationships built on mutual respect and trust. They said that cultural safety is not something to be 'achieved', but rather something to be consistently and continually worked towards in a manner that benefits people of all races and cultural backgrounds.

I INTRODUCTION

The authors respectfully acknowledge the Yuggera and Turrbal peoples as the True Owners and Custodians of the lands on which we conducted this research,

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and we acknowledge with gratitude the Aboriginal and/or Torres Strait Islander peoples that participated in this research.

Law students who identify as Aboriginal and/or Torres Strait Islander report that law school is alienating, isolating and hostile.¹ In recent years, the community of Aboriginal and/or Torres Strait Islander legal academics has grown,² and an increasing number of Aboriginal and/or Torres Strait Islander students are choosing to enter law school.³ There is an important responsibility on law schools, and universities generally, to ensure that Aboriginal and/or Torres Strait Islander peoples feel culturally safe and to build the cultural awareness of all staff and students.⁴

Cultural safety has been defined as ‘an environment which is safe for people; where there is no assault, challenge or denial of their identity, of who they are and what they need’.⁵ It involves ‘shared respect, shared meaning, shared knowledge and experience, of learning together with dignity, and truly listening’.⁶ Cultural awareness requires ‘knowledge and understanding of Indigenous Australian cultures, histories and contemporary realities’,⁷ as well as ‘Indigenous protocols’.⁸ The hope is that by increasing all individuals’ cultural awareness, the cultural safety of those who have historically been marginalised or oppressed will be considered, fostered and enhanced.

¹ Heather Douglas, ‘The Participation of Indigenous Australians in Legal Education 1991–2000’ (2001) 24(2) *University of New South Wales Law Journal* 485 (‘The Participation of Indigenous Australians in Legal Education 1991–2000’).

² Asmi Wood and Nicole Watson, ‘Mirror, Mirror on the Wall, Who is the Fairest of Them All?’ (2018) 28(2) *Legal Education Review* 1, 7.

³ Harry Hobbs and George Williams, ‘The Participation of Indigenous Australians in Legal Education, 2001–2018’ (2019) 42(4) *University of New South Wales Law Journal* 1294, 1323.

⁴ Amy Maguire and Tamara Young, ‘Indigenisation of Curricula: Current Teaching Practices in Law’ (2015) 25(1) *Legal Education Review* 95, 96. We note that not all are supportive of cultural competency discourses. For example, Pon argues that cultural competency, ‘like new racism’, ‘other[s] non-whites without using racialist language’ and is merely a ‘shift away from racial exclusionary practices based on biology to practices based on culture’: Gordon Pon, ‘Cultural Competency as New Racism: An Ontology of Forgetting’ (2009) 20(1) *Journal of Progressive Human Services* 59, 61.

⁵ This definition was first proposed by a group of nurses in New Zealand: Robyn Williams, ‘Cultural Safety — What Does It Mean for Our Work Practice?’ (1999) 23(2) *Australian and New Zealand Journal of Public Health* 213. See also Anne-Katrin Eckermann et al, *Binan Goonj: Bridging Cultures in Aboriginal Health* (Elsevier Australia, 3rd ed, 2010).

⁶ Williams (n 5).

⁷ Universities Australia defines cultural competence as ‘Student and staff knowledge and understanding of Indigenous Australian cultures, histories and contemporary realities and awareness of Indigenous protocols, combined with the proficiency to engage and work effectively in Indigenous contexts congruent to the expectations of Indigenous Australian peoples’: Universities Australia, *Guiding Principles for Developing Indigenous Cultural Competency in Australian Universities* (Report, October 2011) 3 (‘*Guiding Principles for Developing Indigenous Cultural Competency*’).

⁸ *Ibid* 3. See also Ambelin Kwaymullina, ‘Teaching for the 21st Century: Indigenising the Law Curriculum at UWA’ (2019) 29 *Legal Education Review* 1, 17.

The importance of promoting ‘cultural competency’ in the tertiary education sector has been formally recognised by Universities Australia.⁹ In 2011, Universities Australia published its *Guiding Principles for Developing Indigenous Cultural Competency in Australian Universities*, which recommended that Indigenous cultural competency be included as a formal graduate attribute.¹⁰ Many universities have implemented this recommendation.¹¹ Furthermore, universities now have Reconciliation Action Plans (‘RAPs’), and there is a detailed Australian Institute of Aboriginal and Torres Strait Islander Studies *Code of Ethics for Aboriginal and Torres Strait Islander Research* (‘AIATSIS Code of Ethics’),¹² which governs academic research. These developments place a new onus on law schools — and other schools and faculties — to ensure their students are culturally aware and respectful.

There are ‘pockets of progress’ within some universities¹³ and there is a growing body of literature on how cultural competency can be enhanced within and through the law curriculum.¹⁴ Scholars have emphasised the need to embed Indigenous perspectives throughout the curriculum, as well as discussing the ways in which the legal system perpetuates the disadvantage and marginalisation experienced by Aboriginal and/or Torres Strait Islander peoples.¹⁵ This must be done sensitively, to avoid ‘othering’ Indigenous perspectives and normalising ‘whiteness’.¹⁶ Diversity within and between marginalised groups should be emphasised to ensure all students confront their cultural biases and reflect on principles of ‘equity, social justice and anti-racism.’¹⁷

Despite the increased attention on cultural competency in the tertiary education sector, gaps in our knowledge remain. The focus of existing research appears to be students’ classroom experience — we know very little about how Aboriginal and/or Torres Strait Islander students experience extracurricular and clinical legal education programs. There also remains a ‘dearth of research into the experiences of Indigenous people in the legal profession.’¹⁸ Watson (in her

⁹ Maguire and Young (n 4) 96.

¹⁰ *Guiding Principles for Developing Indigenous Cultural Competency* (n 7) 9.

¹¹ Some more recently than others. For example, the University of Queensland (‘UQ’) added ‘culturally capable’ as a graduate attribute in 2023: University of Queensland ‘Graduate Statement and Graduate Attributes Guideline’ *Policy and Procedures Library* (Policy Document) <<https://policies.uq.edu.au/document/view-current.php?id=234>>.

¹² See Australian Institute of Aboriginal and Torres Strait Islander Studies, *Code of Ethics for Aboriginal and Torres Strait Islander Research* (Report, 2020) (‘AIATSIS Code of Ethics’).

¹³ Wood and Watson (n 2) 15.

¹⁴ See, eg, Annette Gainsford, Marcus Smith and Alison Gerard, ‘Accrediting Indigenous Australian Content and Cultural Competency within the Bachelor of Laws’ (2021) 31(1) *Legal Education Review* 59; Thalia Anthony and Melanie Schwartz, ‘Invoking Cultural Awareness Through Teaching Indigenous Issues in Criminal Law and Procedure’ (2013) 23(1) *Legal Education Review* 31; Kwaymullina (n 8).

¹⁵ Anthony and Schwartz (n 14) 35; Maguire and Young (n 4) 111.

¹⁶ Kwaymullina (n 8) 7; Anthony and Schwartz (n 14) 39.

¹⁷ Maguire and Young (n 4) 97; Anthony and Schwartz (n 14) 35.

¹⁸ Wood and Watson (n 2) 6.

article with Wood) calls for more research into the experiences of Aboriginal and/or Torres Strait Islander law students, noting that without it, we will not know whether law schools have become culturally safe spaces.¹⁹

We at the Pro Bono Centre (the ‘Centre’) at the University of Queensland (‘UQ’) wanted to learn more about how Aboriginal and/or Torres Strait Islander students experience our programs, and how we could better ensure the cultural safety of our activities. In this paper, we describe a research project that we undertook to inform our approach. We interviewed students, staff and project partners to determine how we could improve our programs to promote cultural awareness among our students and ensure Aboriginal and/or Torres Strait Islander peoples felt safe when working with us. We learned that cultural competency is not something that can be ‘achieved’ but rather is something that universities, students and the legal profession should continuously work towards. This requires genuine partnerships and relationships to be built over time with Aboriginal and/or Torres Strait Islander peoples, organisations and communities.

II RESEARCH CONTEXT: THE UQ PRO BONO CENTRE

The UQLaw School was established in 1936 which makes it the sixth-oldest law school in Australia. The UQ Pro Bono Centre was established in 2008, and provides students at UQ with an opportunity to use their developing professional skills for the public good through volunteer work for community legal centres and non-government organisations. Students undertake a wide range of tasks for our external partners, including direct-client work, research and writing. The Centre also runs the clinical legal education program. Our clinical program consists of nine external clinics, which run every semester at community legal centres across Brisbane.²⁰

At the time we undertook this research, all Centre staff were non-Indigenous, and we decided to undertake a research project to inform ourselves about what steps we needed to take to improve the cultural safety of our programs. Consistently with the *AIATSIS Code of Ethics*, we were committed to increasing the contribution of Indigenous knowledge to Australian research,²¹ so we wanted to recruit Aboriginal and/or Torres Strait Islander students as researchers,²² and we were committed to speaking directly with as many

¹⁹ Ibid 12.

²⁰ The Centre runs nine external clinics across seven community legal centres in Brisbane. Two of those clinics are the Culturally Safe Criminal Law Practice Clinic (run by YFS Legal) and the Deaths in Custody Clinic (run by Prisoners’ Legal Service).

²¹ *AIATSIS Code of Ethics* (n 12) 3.

²² The Australian Institute of Aboriginal and Torres Strait Islander Studies *Code of Ethics for Aboriginal and Torres Strait Islander Research* states that ‘[t]o demonstrate merit, Aboriginal and Torres Strait Islander research should be led by Indigenous people’: ibid 17 [2.4]–[2.6].

Aboriginal and/or Torres Strait Islander peoples who work with or alongside the Centre as possible.

In 2023, the year of the Voice referendum, we were funded by the University to undertake a semester-long Student-Staff Partnership project to determine how we could embed culturally safe practices in the Centre's work.²³ Staff from the Centre partnered with five students from the Law and Social Work schools, two of whom are Aboriginal and/or Torres Strait Islander, to investigate what cultural safety means and what steps we could take to ensure we create a culturally safe space for our students, staff and partners.

The Centre often engages with Aboriginal and/or Torres Strait Islander students, academics, lawyers and community members. Many students who undertake pro bono work will go on to work in community legal centres or other legal settings where they will interact with Aboriginal and/or Torres Strait Islander professionals and clients. Cultural safety is critical for students' professional development, but it is also important for their personal development. Universities are important sources of socialisation and therefore have a responsibility to ensure graduates are culturally aware and respectful.²⁴

In 2023, UQ added 'cultural capability' to its list of graduate attributes. Specifically, it states:

Graduates will have an understanding of, and respect for, Australian Aboriginal and Torres Strait Islander and global Indigenous peoples' values, cultures, and knowledge. They will have an appreciation of cultural and social diversity and work with a sense of social and civic responsibility towards a more just and equitable society.²⁵

The addition of this graduate attribute was an important development at UQ. However, there was no accompanying information provided to academics on what this would mean for teaching and learning. Through this project, we sought to fill gaps in our own knowledge about how to achieve 'cultural capability' through our pro bono and clinical programs.

²³ At UQ, Student-Staff Partnerships are offered as a means for students and staff to work together on a project to 'transform the student experience' and 'amplify the student voice' in UQ's teaching, learning or governance systems: University of Queensland, 'Student-Staff Partnership Project', *Careers and Employability* (Web Page) <<https://employability.uq.edu.au/ssp-projects>>.

²⁴ See also Kathleen Butler and Anne Young, 'Indigenisation of Curricula — Intent, Initiatives and Implementation' (Conference Paper, Australian Universities Quality Forum, July 2009).

²⁵ University of Queensland, 'UQ Graduate Statement and Graduate Attributes Outline', *Policies and Procedures* (Policy Document, 23 May 2023) <<https://policies.uq.edu.au/document/view-current.php?id=234>>.

III OUR STUDY

A Method

The *AIATSIS Code of Ethics* states that the principle of Indigenous self-determination is ‘fundamental’ to Australian research.²⁶ With this in mind, we sought to genuinely and meaningfully engage with Aboriginal and/or Torres Strait Islander peoples, and to authentically represent their voices through this research.²⁷ We invited key stakeholders — students, staff and partners — to participate in an interview. We put a call out to all Aboriginal and/or Torres Strait Islander students through the law-school newsletter inviting them to participate. We approached Aboriginal and/or Torres Strait Islander staff and external partners who were known to us and asked them if they would participate. We then approached a select group of non-Indigenous staff and students with a demonstrated interest in cultural safety to participate. All participants were students, members of the legal profession, or university staff.

We acknowledge that there are some limitations to our approach. We note that some law students may choose not to identify as Aboriginal and/or Torres Strait Islander at university. It is unfortunate that we were not able to canvas their experiences. Further, not all Aboriginal and/or Torres Strait Islander students at our law school wanted to participate. We acknowledge that some individuals may have chosen not to participate due to past experiences of racism within the university. We also recognise that many already carry a heavy cultural load.²⁸ We were conscious of this, and wanted to avoid adding to it through this research.

Our research was undertaken in the second half of 2023, around the time of the Voice referendum. Unfortunately, this meant that many of the Aboriginal and/or Torres Strait Islander peoples we invited to participate were unable to assist because of their existing commitments, and the cultural and personal load they were carrying. We are grateful to all Aboriginal and/or Torres Strait Islander peoples who agreed to be interviewed during such a difficult time.

²⁶ *AIATSIS Code of Ethics* (n 12) 12.

²⁷ *Ibid* 18–19 [2.5]–[2.6].

²⁸ Cultural load is the ‘(often invisible) additional workload borne by Aboriginal and Torres Strait Islander people in the workplace’. ‘Indigenous-related work demands’ can include an expectation that Aboriginal and/or Torres Strait Islander peoples educate others about racism and provide advice on reconciliation measures: see generally Diversity Council of Australia, ‘Aboriginal and Torres Strait Islander Peoples — Leading Practice’, *Diversity Council Australia* (Web Page) <<https://www.dca.org.au/resources/aboriginal-and-torres-strait-islander-peoples/aboriginal-and-torres-strait-islander-peoples-leading-practice>>.

We obtained ethical clearance from the relevant university ethics committee, and all team members undertook UQ's Core Cultural Learning modules (online cultural competency training) before undertaking the interviews.²⁹

The interviews were semi-structured in nature. All participants were asked to comment on some key issues. They were:

- What is cultural safety?
- How can we ensure that our projects and activities are culturally safe?
- How can we ensure that we involve Aboriginal and/or Torres Strait Islander peoples in our activities without increasing their cultural load?

In addition to these questions, the participants who identified as Aboriginal and/or Torres Strait Islander were asked:

- Have you ever felt culturally safe, or culturally unsafe?
- What does 'cultural load' mean to you?
- How could you be better supported by the Centre and the university generally, particularly when the cultural load becomes too much?

B Participants

A total of 17 interviews were conducted. Thirteen participants identified as Aboriginal and/or Torres Strait Islander (76%). Eight participants were students, four were university staff, and five were individuals external to the university. Nine participants identified as male, and eight identified as female. No other genders were represented.

We were mindful of the importance of ensuring that research pertaining to Aboriginal and/or Torres Strait Islander peoples is 'founded on a process of meaningful engagement'.³⁰ We provided participants with a choice as to how they wished to be interviewed — in person, or online — and we ensured that Aboriginal and/or Torres Strait Islander researchers conducted, or were present at, as many interviews as possible. We acknowledge that each participant has ownership of data pertaining to them.³¹ Consistent with this principle, we approached as many of the Aboriginal and/or Torres Strait Islander participants as possible and provided them

²⁹ The *AIATSIS Code of Ethics*, Principle 1.13 requires that members be 'able to demonstrate a level of cultural competency': (n 12) 14.

³⁰ *Ibid* 14 [1.5]. At the same time, it was important for us to ensure that the identifying members of the research team did not undertake more than their fair share of the burden. We discuss cultural load further at Part IVC.

³¹ *Ibid* 13 [1.3], 18 [2.1], 19 [2.7], 22 [4.3]. See also Maggie Walter and Michele Suina, 'Indigenous Data, Indigenous Methodologies and Indigenous Data Sovereignty' (2019) 22(3) *International Journal of Social Research Methodology* 233.

with a draft of this article and an opportunity to provide feedback on it. Unfortunately, not all participants could be reached as some had moved on and we did not have current contact information for them. We also gave each participant a choice (both before the study and on completion of the draft article) as to whether they wished to be personally identified in this paper or not. All agreed not to be personally identified.

C Data Analysis

All of the interviews were transcribed verbatim by team members, and the transcripts were reviewed by at least one other team member to ensure their accuracy.

We then conducted a reflexive thematic analysis of the transcripts in accordance with Braun and Clarke's methods.³² We started by familiarising ourselves with the entire dataset by reading and rereading the transcripts. Codes were manually allocated to relevant segments of data — segments included phrases, sentences or paragraphs of speech. The codes were ascribed inductively based on the project aims and interview questions. Themes were generated from the codes and reviewed during the write-up process.

The findings reported in the next section draw on participant quotes that are representative of the generated themes. This is consistent with Principle 2.5 of the *AIATSIS Code of Ethics*, which states that Indigenous voices should be represented in the analysis and communication of research results. We use quantifying terms to illustrate the strength of particular themes, however we recognise that each individual we spoke with held different views and perspectives³³ and our aim is to reflect the diversity of views that were expressed.

We acknowledge that individuals who identify as Aboriginal and/or Torres Strait Islander hold their own views on language. We respect individuals' choices on this, so we have retained participants' own language. Some refer to 'First Nations' peoples, others use the word 'Indigenous', others 'Aboriginal' or 'Aboriginal and Torres Strait Islander'. We have used the phrase 'Aboriginal and/or Torres Strait Islander' because we consider this language to be most inclusive. We also use the word 'Indigenous' at times, particularly when comparing Indigenous and non-Indigenous issues and perspectives.

³² Virginia Braun and Victoria Clarke, *Thematic Analysis: A Practical Guide* (Sage Publications Ltd, 2022).

³³ *AIATSIS Code of Ethics* (n 12) 13 [1.2].

IV FINDINGS

Three broad themes were generated from our analysis: definitions and examples of cultural (un)safety; how cultural safety can be generated or enhanced within law school co-curricular programs; and minimising cultural load. Several sub-themes were also generated, and they are each discussed in turn.

A Definitions and Examples of Cultural (Un)Safety

1 What Cultural Safety Looks Like

Participants agreed that cultural safety requires ‘listening’, ‘empathy’ and ‘understanding’. They recognised that to feel safe, a space must be ‘judgement-free’. Participants said that to create culturally safe spaces, individuals need to ‘unpack’ their own culture, and be willing to implement suggestions from those who are ‘in the cultural know’. One participant said:

[E]veryone has their cultural biases ... [it’s] looking from the inside and go, well, I understand where I come from. I understand that some of my privileges have actually disadvantaged this culture. But now I can understand. And also, then you can work together in that space, with a little bit of empathy, a little bit of understanding.

Several participants, particularly those who identified as Aboriginal and/or Torres Strait Islander, noted that cultural safety was not just an issue for them, but also for people from other cultural backgrounds. They observed that university is a ‘melting pot’ that comprises ‘all sorts of different people’. They suggested that cultural safety was about ‘anti-racism’ and that we should promote cultural safety ‘for everybody, and not just for First Nations people.’

Participants emphasised that not all racism is ‘overt’. Indeed, Aboriginal and/or Torres Strait Islander peoples said that much of the racism they encountered at university was ‘unconscious’ or ‘implicit’. Often it was the result of misinformation, or a lack of understanding and knowledge of Aboriginal and/or Torres Strait Islander history and culture. Some participants noted that feelings of unsafety can result from *how* views are represented, not just *what* is said. For example, if Aboriginal and /or Torres Strait Islander matters are discussed in a lecture, but only ‘quickly’, this can be experienced as ‘dismissive’. Participants said that cultural safety in a university goes beyond what is, or is not, said in the classroom, and that how staff ‘deal with Indigenous students ... outside of the classroom’ is equally important.

One non-Indigenous participant suggested that one way of measuring cultural safety is to gauge ‘how our community and our First Nations people value their relationship with us ... whether they feel safe coming to us’. Consistent with this, when one participant was asked ‘what does cultural safety look like?’, they said: ‘Visually, it looks like having Aboriginal academics in law and having

Indigenous students in law — but you don't get that unless people feel supported.'

2 Cultural Safety at Our University, Law School and Centre

Current students, past students and staff who identified as Aboriginal and/or Torres Strait Islander said that the Aboriginal and Torres Strait Islander Studies Unit was 'probably about as culturally safe for a First Nations person as you can get' and one described it as 'the bastion of cultural safety at uni'. They valued the 'community-focused' feel of the unit, as well as the services it offers to students such as tutoring and study spaces. There was not a single participant who said anything negative about the unit — everyone agreed this was a place of safety for them.

Some current students said that the Pro Bono Centre was a safe place for them, although we note that Centre staff were often present at the interview so that may have influenced responses. Participants noted the 'social justice' emphasis of the Centre and observed that 'the vibe is just very welcoming. It's very relaxed. It's interested in your contribution and wanting to help each other'. One participant remarked:

[I]f you're offering something to help people, that's already coming from a good place. You're not asking people to give you anything. So many people come to Indigenous communities and Indigenous people with an extractive mindset where they think they're going to get something.

Participants described the Centre's clinical legal education program as an important mechanism for furthering cultural awareness and knowledge, 'building allies' and providing students with the tools they need to 'call things out' within their friendship groups and workplaces. Non-Indigenous students observed that 'most people who did clinic had a lot more cultural competency training than they'd received in any other course.'³⁴ Students also observed that they acquired cultural knowledge almost accidentally through the Centre's projects. For example, one non-Indigenous student who had participated in the Centre's Deaths in Custody project³⁵ said 'there was actually a fair bit of stuff that came from doing the activity that I think engendered a lot of cultural awareness'.

Current students who identified as Aboriginal and/or Torres Strait Islander spoke positively about their experiences at UQ law school. For example, one current student remarked, 'I don't think I personally ever felt unsafe in the law school', and another said, 'I haven't really experienced anything [negative] from

³⁴ Students are required to complete UQ's core cultural competency (online) modules prior to commencing clinic.

³⁵ Deaths in Custody Project, 'About Us', *The Deaths in Custody Project* (Web Page) <deaths-in-custody.project.uq.edu.au>. This project is now run in partnership with Prisoners' Legal Service (Qld).

staff, to be honest.’ Aboriginal and/or Torres Strait Islander students said they ‘generally’ had ‘positive experiences’ and felt ‘really supported by the law school and the university generally’. They spoke positively about law school staff and their sensitivity to cultural matters. One participant said: ‘There’s been a few key people and I have felt like a genuine respect from them and an empathy there, which is really nice.’ Another said: ‘I get the vibe that the professors are very aware of the issues.’ The students also generally approved of the way relevant areas of law were taught. In relation to native title, one student said: ‘the lady that I had teaching it, I think she did a lovely job ... she explained the importance of it [native title], not just what it was.’ In relation to *Mabo (No 2)*,³⁶ which is taught in first year, students said this material was ‘taught quite well’ and ‘approached with sensitivity.’

Having said this, some Aboriginal and/or Torres Strait Islander staff and partners did describe situations where they had felt culturally unsafe at UQ and at other universities. Their concerns related mostly to the lack of Aboriginal and/or Torres Strait Islander staff, particularly in senior academic and leadership positions, and the ‘exhausting’ cultural load they were expected to bear. Cultural load is discussed in detail below.

3 Cultural Unsafety as a Student

Although most of the Aboriginal and/or Torres Strait Islander students we interviewed spoke positively about their experiences at university, some disclosed that, at times, they had felt culturally unsafe. For example, one student said that ‘walking into the law school’ was ‘intimidating’ and that, at first, they ‘felt like I didn’t fit in.’ While the Aboriginal and/or Torres Strait Islander students acknowledged that this may be the case for other students as well, they felt the ‘competitive imposter syndrome atmosphere of law school’ was ‘probably something that will disproportionately affect Indigenous students.’ Another participant observed that Aboriginal and/or Torres Strait Islander peoples may feel that they ‘don’t really fit into a university system’ because universities ‘are built on a very individualistic way of thinking — whereas, for Aboriginal people, it’s all about relationality and as a collective, we do things for our collective.’ Another participant noted: ‘The very institutions [universities] themselves sit on stolen land, so the institution at that base level is already unethical.’

Several participants said that negative experiences in the classroom typically resulted from interactions with other students rather than staff. Such encounters involved ‘the odd student in a class saying something ... you know, just a super ignorant comment based on an entitlement and a complete lack of understanding about core issues.’ One participant described an experience they had where another student had objected to a lecturer’s explanation of *Mabo (No 2)*: ‘[T]his

³⁶ *Mabo v Queensland (No 2)* (1992) 175 CLR 1.

bloke sitting next to me ... he's literally saying how he thinks the decision in *Mabo* was wrong ... he actually went up to [the lecturer] and said, "but like the land was dead set uninhabited because there was no laws".'

Aboriginal and/or Torres Strait Islander participants said that the risk of these kinds of interactions affected their learning. One said:

I've always had to kind of sit there wondering like when someone is going to make an insensitive comment or just start, you know, saying things around me without realising that I'm Indigenous about Indigenous people. And just having that constant fear all the time, it sucks.

They said these experiences were not 'really the fault of the university, though, kind of just the individual.' However, participants also said that lecturers played an important role in modelling appropriate behaviour. One non-Indigenous participant observed that 'a lot of the conventional ways we teach may make people feel unsafe, or [that] their experience is not well recognised or reflected within the existing curriculum.' One Aboriginal and/or Torres Strait Islander student observed that they felt safer in classrooms with fewer students: '[T]hose seminars where there's more personal interaction ... in small environments like that, I do feel culturally safe and just being able to express myself.'

Further to their experiences at university, several participants reported feeling culturally unsafe in their workplaces. These workplaces were legal and corporate in nature, commonly large law firms. Students said they felt like a 'massive imposter', or a 'fish out of water', and described being in a 'constant state of discomfort' in these types of workplaces. One said: 'you just look around at that firm — really just a bunch of really privileged white people'. Many described feeling 'quite isolated' and alone: 'I'm like the only Indigenous one'. One observed: 'there wasn't a community around me, whether they were First Nations or non-Indigenous.'

Some Aboriginal and/or Torres Strait Islander participants said they felt like a 'diversity hire': that 'we're hiring you because you're Indigenous'. Several others said they were expected to participate in committees and events related to Aboriginal and/or Torres Strait Islander peoples and issues. One student described what happened when they started at an unnamed 'corporation' as a student intern:

[W]hen I went in, they didn't even tell me. They just said, 'oh, we're going to ask you a couple of questions, like, how can we improve our workplace' ... I think that's okay if they have good intentions and they actually want to learn. However, it's just a little bit of an uncomfortable space for an intern, for you to not give them any notice, and you're asking them whether or not they consent ... Like, of course I'm going to say yes. And of course I'm going to talk to a bunch of senior people about it. But it was just the most uncomfortable situation where I felt like I had to speak on behalf of all Aboriginal and Torres Strait Islander people for this corporation.

Another Aboriginal and/or Torres Strait Islander participant described a similar experience:

[O]ne time I was in a law firm and they have the reconciliation committee. And I knew nothing about it, like it was literally the day of, and they were like ‘you’re coming to the meeting, right?’ ... I would have been more than happy to go and be a part of that. But it was that expectation, that automatic assumption that you have to be a part of this.

As was the case with peers in the classroom, some unsafe interactions with workmates were reported by participants. Again, participants stressed that ‘it wasn’t the organisation, it was one particular person, really’.

Participants also described feeling unsafe at court. Some noted that Acknowledgements of Country are not generally done in court, and that lawyers who represent Aboriginal and/or Torres Strait Islander clients generally do not ‘acknowledge their [the client’s] mob’ in court.

B *How to Create or Enhance Cultural Safety*

Participants emphasised that cultural safety was something to be worked towards, rather than a task to be completed. Several participants observed that ‘nobody is ever culturally competent’ but rather ‘the journey’ is a ‘continuous one’. Several participants, particularly those who identified as Aboriginal and/or Torres Strait Islander, noted that cultural safety needed to extend to people of all races. They said that culturally safe processes should be ‘built by a diverse range of opinions and perspectives so that it’s welcoming for all.’

1 *The Importance of Relationships*

When we asked our participants how cultural safety could be enhanced, they commonly discussed the importance of developing ‘honest’, ‘meaningful’, ‘longer-term’ relationships with Aboriginal and/or Torres Strait Islander peoples. In particular, they spoke of the need for ‘mutual respect’, ‘inclusivity’, ‘connection’ and ‘deeply listening to each other’. One participant remarked: ‘Aboriginal culture is an oral culture ... put that pen down, put that book down, and go and get to know — build a relationship first.’

There were two types of relationships that participants said needed to be developed and nurtured. The first was relationships between Aboriginal and/or Torres Strait Islander students and university staff. Participants who identified as Aboriginal and/or Torres Strait Islander emphasised the importance of open and ongoing communication between Aboriginal and/or Torres Strait Islander students and staff — students wanted to be listened to and consulted with on how their cultural safety could be enhanced. Several participants suggested that regular opportunities to meet and engage, with academic leaders and one

another, should be available by holding ‘drop-in sessions’, or ‘one-on-one check ins’ with ‘certain staff members every once in a while’.

Participants also emphasised the importance of building relationships with local Aboriginal and/or Torres Strait Islander organisations and Elders. Genuine community engagement was considered to be very important for cultural safety. Several participants said that universities should make an effort to engage in ‘community events’, as well as holding their own events ‘to do with Aboriginal and Torres Strait Islander issues’.

Aboriginal and/or Torres Strait Islander participants emphasised the importance of ‘look[ing] beyond the people in your institution’ and undertaking ‘more consultation with community’. They suggested ‘identifying the First Nations community organisations in your area and around the university and being a meaningful part of that — not just going in for six months or 12 months — it needs to be ongoing.’ Participants suggested that knowing who the local Elders are, building relationships with them, including them in university activities and ‘having yarns’ with them was important, noting of course that they should be paid for their time. As one participant remarked: ‘It’s actually doing more than just having the RAP. It’s more than just having the flags at the front counter. It’s more than just having some nice art. It’s actually about doing the hard yards.’

2 Truth-Telling

Several participants emphasised the importance of truth-telling to cultural safety. One participant said: ‘I think capacity building starts with truth-telling. It starts with acknowledging the place that Aboriginal people have been put in because of colonisation.’

Several participants discussed the importance of being educated about the history of your local area. One participant said: ‘Essential, I suppose, just would be an awareness — awareness of colonial history, and that there’s still a gap to be closed in that there are still issues faced by First Nations people in Australia.’

Participants agreed that it was important for everyone to understand culture — to have ‘a basic understanding of what is cultural ... what is culture and what does it mean’. This encompassed a ‘basic general knowledge of Aboriginal culture’ but also a knowledge of individuals’ own culture. Participants felt that non-Indigenous people could benefit from learning about other cultures because ‘they can learn that their western ways of doing things aren’t necessarily the only way of doing things’. This, they said, was ‘part of the truth-telling process’. One participant who identified as Aboriginal and/or Torres Strait Islander remarked:

[I]f you can embed ... knowledge of the ways in which Indigenous peoples and peoples of diverse ethnic and racial backgrounds think feel, live and how they are safely integrated from their perspective ... then you give the whole endeavour of cultural safety a much more sustainable and better propositioned foundation.

3 Cultural-Awareness Training

There was general agreement amongst participants that cultural-awareness training was crucial, however there were different views on how it should be delivered. Participants said there should be 'a variety of training' through 'different mediums and different ideas' and that 'you can't just have one person's idea of what's cultural safety.'

Whilst some participants believed that 'you can't get competent from engaging with the computer', others said they had completed online training that was 'quite good'. Online modules that were 'brief', 'vague' or 'self-assessed' with 'not much follow-up on the content' were considered inadequate. Participants wondered whether people could be trusted to 'participate in it meaningfully' or whether it was a 'tick box exercise'.

Several participants said that in-person 'workshops', where training was conducted in small groups, were most effective.³⁷ They acknowledged that this form of cultural-awareness training was expensive and resource intensive. Nevertheless, some participants said this was an important 'investment' in students' 'cultural competency' and that universities were best placed to make this investment. One participant said: 'The university has resources that are near to boundless ... you are so much more well-resourced than the community legal centres that you are engaging with and sending your student volunteers out to.'

Other participants made suggestions on how online modules could be improved. They said that online modules should be a compulsory onboarding activity for all staff, and 'ongoing' or 'continual' after that. One participant suggested that individuals could be more effectively assessed. For example, they could be required to do a 'reflection piece at the end' or answer 'weird questions to ensure that they watch the video'. One participant suggested that staff complete the modules together in small groups at 'lunchbox sessions' so people could 'do the module ... and then have a yarn about it'.

Several participants observed that cultural awareness training was best conducted 'off site' and 'On Country'. They described 'tours' and 'day trips' On Country they had taken with students and staff as 'really, really beneficial' because they allowed individuals to be 'immerse[d] in an Indigenous culture and Indigenous ways of knowing, being, doing and learning'. Alternatively, one participant suggested having 'family or Elders or something like that, or community organisations, come down, like once a year' because this would foster a genuine connection. As one participant said: 'I mean, it's one thing to do an online module. That you can really skip in advance and say, "yes, I've done it" and

³⁷ Two participants provided the example of BlackCard training and described it as 'fantastic': Black Card, 'Our Impact', *BlackCard* (Web Page) <<https://www.theblackcard.com.au/>>.

tick that box. But to actually sit in a room with Aboriginal people and listen and feel. [There's] a really vast difference.'

One participant felt that more targeted training needed to be delivered to non-Indigenous teaching staff. They acknowledged the importance of cultural knowledge and awareness, but felt it was also important to 'provide the resources for staff to learn, providing supports to help them change their courses, to help them understand appropriate ways of teaching'. They felt that having Aboriginal and/or Torres Strait Islander peoples available to talk to staff and provide advice on these matters would enable cultural safety to be 'structurally embedded' across the university.

4. Culturally-Sensitive Teaching

Participants observed that small changes could be made immediately in university settings to improve cultural safety. Some said that the presence of 'culturally authoritative pieces of artwork from local community' could enhance feelings of cultural safety. Others noted the importance of using 'culturally sensitive language'. Several participants said that an Acknowledgement of Country should be given before meetings and classes 'every single time', with 'sensitivity'. However, not all participants agreed that this should be 'a requirement'. One participant emphasised that the idea behind giving an Acknowledgement of Country was to 'clear the energy in the room and make everything kind of at peace' and, therefore, 'if someone's not willing to do that and they don't realise the meaning behind it and the reasons for it, well, that's kind of on them — that's their decision.'

Participants agreed that the way in which material is delivered to students can enhance, or detract from, a sense of cultural safety amongst Aboriginal and/or Torres Strait Islander people. Many noted the importance of openly recognising and respecting diversity. One Aboriginal and/or Torres Strait Islander student suggested that acknowledging students' diversity could promote mutual respect and address the risk of 'insensitive comments' being made by other students:

[E]ven in the first lesson [the teacher could say:] 'You're all a diverse bunch of students. And I know that we all come from different places. Some are Indigenous to Australia, some are Australian, some are from overseas. But I want you to all treat each other, you know, with the same level of respect ... there may even be an Aboriginal person sitting next to you.'

There were some cultural matters that participants felt should be deliberately and overtly taught to students. In particular, it was agreed that law students should be encouraged to 'reflect on the role that the law plays, has historically played and continues to play today, in the dispossession of First Nations people, their experiences of racism, discrimination, oppression in an ongoing way and trying to connect.' Two participants said that students should be taught about Aboriginal

and/or Torres Strait Islander ways of being, including the importance of 'relationality' and community.

Several participants said that 'Indigenous specific examples' should be raised across all areas of law 'to kind of highlight some of the issues that are actually happening in the real world.' Participants noted that while cultural matters tended to be 'taught very respectfully', 'there's a lot of courses where Aboriginal issues just don't feature at all'. They felt that 'Indigenising the curriculum' meant ensuring that 'Indigenous culture, perspectives, case examples, experiences are incorporated into every law course within a law school, and not just in obvious subjects.' Participants said that this needed to be done in a genuine and meaningful way. As one participant remarked: 'If it's just a dot point' that 'sends a message to students' — there are 'silent messages in that'.

Some participants raised the lack of Indigenous voices in legal education. One non-Indigenous participant explained:

[A]cademics have a very important role to play in not only how they present information, when they incorporate Indigenous perspectives into a course ... but also the credibility and authority that academics pay to Indigenous scholars and community voices on those types of topics.

Student participants agreed that they would benefit from having more Aboriginal and/or Torres Strait Islander guest lecturers. One said: 'bring in Elders, UQ can pay them to give guest lectures'. Participants said that hearing people 'talking about their experiences' could be transformative: 'you learn so much from someone else's lived experience'. One participant, a non-Indigenous student, described one guest lecture they attended:

[T]he lady who was Indigenous came in and like the lecture was basically like ... a yarnning circle. It was good to see how it actually works in person ... I think we were practising cultural safety in that way, but we didn't even realise we were. We were just learning from someone and their experiences of life.

C Minimising Cultural Load

Throughout the interviews, participants raised the tension between ensuring that programs are 'co-designed' with Aboriginal and/or Torres Strait Islander peoples, while also being mindful of the cultural load that is already borne by identifying individuals.

Participants agreed that 'we have so much Indigenous or First Nations expertise ... already within the university ecosystem.' They noted the importance of 'getting Aboriginal and Torres Strait Islander students involved in the way we shape these processes and listening to their suggestions'. They also noted the:

[V]ery important need to be in regular contact with Aboriginal and Torres Strait Islander colleagues over these issues ... you don't want to be replicating potentially the

kind of colonial dynamics where you're the non-Indigenous person who just knows what's best and what's right, and you don't speak to Indigenous colleagues.

However, participants said there is 'also a need to recognise how much work First Nations colleagues and students are called on to do, expected to do, in this space.' Participants who identified as Aboriginal and/or Torres Strait Islander provided myriad examples of cultural load they already carried. They said there was 'constantly' an 'expectation' that they would 'be on RAP committees', 'organise events', 'contribute to conversations and policies and provide feedback', 'do the Acknowledgement [of Country]' and be the 'single source of information' on 'Indigenous issues' (an 'encyclopedia of Aboriginality'). One participant said:

It's anything from, you know, explaining what NAIDOC is, to reconciliation, to being the person that they call on to sit on every single committee, because you're the token black ... getting asked to do the Acknowledgement of Country ... having to be the Aboriginal expert on everything, because you're Aboriginal, you're expected to know everything Aboriginal, right?

Many participants said they were 'happy to share our culture' and 'happy to do these things ... but when do we say enough is enough?' Several Aboriginal and/or Torres Strait Islander participants described the cultural load they carried as 'exhausting' and often uncompensated. One said: 'it's an expertise, it's a special knowledge that we come with, but we're expected to contribute for free.' Another said:

If you had an employment consultant come in or a HR consultant come in, you pay those people ... But when it comes to developing RAPs or developing policies or anything else, then they expect the First Nations staff to contribute without any extra pay.

Students who identified as Aboriginal and/or Torres Strait Islander said that a 'nice balance' had been struck by the UQ law school in being 'open to have you do certain things, but there's not been that pressure or expectation that you have to do it.' One said:

I think the law school's been pretty good with not having a huge expectation around it. I have done things with the law school — scholarship kind of things like photoshoots and interviews — but I think it was always approached with a genuine understanding that if you don't have capacity for it, that's okay.

However, several participants experienced significant cultural load within their workplaces. They said that while 'working with Indigenous students and staff is a joy — there's no load there', they felt burdened 'when it's a non-Indigenous organisation asking me to do extra work, to help them further their own journey'. They said they felt an 'obligation' to help, but at times it could get 'too much'.

When asked how their cultural load could be reduced or managed, they suggested that non-Indigenous people 'ask but not push it'. They were willing to 'put [their] time and energy into it' but they wanted to be free to say no without

being 'demonised'. One participant suggested that a network of allies could help shoulder the load:

[W]e need to have a lot more allies stepping up into this space to carry some of that load for us ... if we had something more similar to what they have as an [LGBTIQ] ally network ... having that visibility out there so that people can actually go to another non-Indigenous person who can carry that load as well.

Another participant warned that having an 'army of allies' should not be seen as 'the end goal':

You wanna be auntie, you wanna be sis, you wanna be a bungee. You don't wanna be an ally ... But you can't be a sis or a bungee unless you're a competent ally first ... It's not us versus them. It's all of us together.

Certainly, there was agreement that universities should be proactive in easing the cultural load carried by Aboriginal and/or Torres Strait Islander staff and students. Participants said this could be done by appropriately remunerating people, perhaps through a 'cultural loading'. Participants also said that universities should 'take responsibility' for ensuring 'they're educating their students on how to be more culturally safe, on how to be more culturally respectful'. Likewise, non-Indigenous participants recognised the importance of 'taking responsibility for our learning'. One non-Indigenous student said: 'I think it should be my responsibility to be more aware and to be a bit more proactive in my learnings about Indigenous Australians and Indigenous culture.' A non-Indigenous staff member said: 'I think I have a responsibility to commit as an ongoing learner to always reform and work on my culturally safe practice.'

Participants also recognised the need to support Aboriginal and/or Torres Strait Islander peoples to become law students, stay in law school and become legal practitioners. Several participants observed that 'we need more mob in the profession' but the 'attrition rate for First Nations law students' remains high.

Participants said that universities, and the Centre specifically, 'needs to make a commitment to support and provide those opportunities for our First Nations law students.' One participant observed that 'a lot of our mob don't have those family connections or other connections' so 'volunteering experience' was hard to secure. Ensuring that Aboriginal and/or Torres Strait Islander students are prioritised for these opportunities could assist them to be 'in a more equal position'. As one participant said, 'it's the responsibility of everyone in the profession to make sure that we get more mob through.'

V DISCUSSION

Research undertaken in the early 2000s indicated that almost three quarters of all Aboriginal and/or Torres Strait Islander law students did not complete their law

degree.³⁸ This is likely to have improved over the last 20 years,³⁹ however available evidence suggests that retention rates are substantially lower for Aboriginal and/or Torres Strait Islander law students.⁴⁰ Our participants noted how important it is that more Indigenous people enter the legal profession, but we must first ensure they stay in law school. An important aspect of the law school experience at UQ is involvement in volunteer work through the Pro Bono Centre.

Our participants spoke generally about university and law school, as well as their experiences in corporate workplaces. All of this provides important information to us on the cultural safety of the Centre's programs because student volunteers engage with each of these systems as part of the Centre's activities — they attend classes and workshops, volunteer at non-Indigenous organisations and corporations, and work closely with their peers on group projects. We must ensure that all of these interactions are culturally safe for Aboriginal and/or Torres Strait Islander students, and that all law students understand the importance of creating culturally safe environments for future clients.

We found that what happens in the classroom remains central to law students' experience of cultural safety. Indigenous scholars have attributed high-attrition rates to law school culture and curriculum,⁴¹ and our participants agreed with this assessment. Recent reviews have concluded that, while Indigenous perspectives are included in some core subjects — such as property law and foundations of law — they have not been embedded across the law curriculum.⁴² As Wood and Watson observe, it seems that while there has been a 'gradual filtering of Indigenous people's perspectives into the curricula' over time, true 'cultural change within law schools ... remains elusive.'⁴³

Non-Indigenous legal scholars have also observed that there is more work to be done to embed Aboriginal and/or Torres Strait Islander perspectives in law curricula. As Vines notes, incorporating 'Indigenous issues into all aspects of

³⁸ Australian Government, Panel of the Review of Higher Education Access and Outcomes for Aboriginal and Torres Strait Islander People, *Review of Higher Education Access and Outcomes for Aboriginal and Torres Strait Islander People* (Final Report, 12 July 2012) 8.

³⁹ Australian Government, Department of Education, *Indigenous Cultural Competency for Legal Academics Program* (Final Report, 2019) vii ('*Indigenous Cultural Competency*').

⁴⁰ *Ibid* 1.

⁴¹ Phillip Rodgers-Falk, *Growing the number of Aboriginal and Torres Strait Islander Law Graduates: Barriers To the Profession* (Research Report, September 2011) 1–3; Council of Australian Law Deans, *Learning and Teaching in the Discipline of Law: Achieving and Sustaining Excellence in a Changed and Changing Environment* (Final Report, 2009) 32; Nicole Watson, 'Indigenous People in Legal Education: Staring Into a Mirror Without Reflection' (2005) 6(8) *Indigenous Law Bulletin* 4; Heather Douglas, 'Racism in Legal Education: Towards Indigenisation' (2005) 6(8) *Indigenous Law Bulletin* 12 ('*Racism in Legal Education*').

⁴² *Indigenous Cultural Competency* (n 39) vii. Gainsford, Smith and Gerard (n 14) stress the need for a 'whole of curriculum approach': 65. See also Kwaymullina (n 8) where the process of Indigenising the law curriculum at the University of Western Australia is detailed.

⁴³ Wood and Watson (n 2) 1.

the curriculum' should be 'automatic'.⁴⁴ Yet, Saul observes that Aboriginal and/or Torres Strait Islander peoples and legal systems have made only 'marginal appearances' and 'have seldom been treated as compulsory subjects in their own right.'⁴⁵ This is unfortunate, given that several non-Indigenous scholars have documented the ways in which they have successfully incorporated Indigenous perspectives into their core units.⁴⁶ Saul notes that notions of 'statehood, colonisation and decolonisation, self-determination, legal personality and treaty-making' are all highly relevant to the study of public international law.⁴⁷ Anthony describes an innovative approach to the teaching of torts that focuses on Stolen Generations cases,⁴⁸ and Anthony and Schwartz discuss the ways in which cultural awareness can be embedded in criminal law and procedure courses.⁴⁹

Our participants noted that attention must be paid not only to what is taught, but also to what is not taught, and *how* classes are taught. As Otto observes, '[w]hat is included and excluded' in law classes 'and whether a chosen topic or issue is marginalised or given prominence, sends very powerful messages to students'.⁵⁰ Anthony states that incorporating issues pertaining to Aboriginal and/or Torres Strait Islander peoples into the law curriculum requires a 'systematic approach', and 'is not simply a matter of sprinkle in a few cases and stir.'⁵¹ As well as hidden messages, there is also a risk of 'deficit thinking' by framing Aboriginal and/or Torres Strait Islander experiences negatively.⁵² This can be addressed by privileging Indigenous knowledges and voices and drawing

⁴⁴ Prue Vines, 'Putting Indigenous Issues into the Curriculum: Succession and Equity' (2012) 4 *Ngiya: Talk the Law* 46.

⁴⁵ Ben Saul, 'Indigenous Peoples, Laws and Customs in the Teaching of Public and Private International Law' (2012) 4 *Ngiya: Talk the Law* 63.

⁴⁶ See also Gary Meyers, 'Two Examples of Incorporating Indigenous Issues in Law School Curricula: Foundation Year Courses and Electives in Environmental / Natural Resources Law (2008) 7(9) *Indigenous Law Bulletin* 6.

⁴⁷ Saul (n 45) 64.

⁴⁸ Thalia Anthony, 'Frameworks for Including Indigenous Issues in Torts: Stolen Generations Case Study' (2012) 4 *Ngiya: Talk the Law* 30.

⁴⁹ See Anthony and Schwartz (n 14).

⁵⁰ Dianne Otto, 'Handmaidens, Hierarchies and Crossing the Public-Private Divide in the Teaching of International Law' (2000) 3 *Melbourne Journal of International Law* 46.

⁵¹ Anthony (n 48). Anthony suggests an activity where students are asked to consider whether a case outcome would be different had the subject children been non-Indigenous, for example, as a means of highlighting the impacts of systemic racism and disadvantage: 44. See also Gainsford, Smith and Gerard (n 14) 65.

⁵² *Indigenous Cultural Competency* (n 39) 22; Kwaymullina (n 8) 8-9; Anthony and Schwartz (n 14) 37; Phil Falk, 'Law School and the Indigenous Student Experience' (2005) 6(8) *Indigenous Law Bulletin* 8, 8.

on Indigenous narratives to demonstrate the resilience of Aboriginal and/or Torres Strait Islander peoples and to recognise and share their cultural wisdom.⁵³

Vines creates a rule in her classroom that a non-Indigenous source should not be used if an Indigenous one is available.⁵⁴ This is an important step towards recognising the value of Indigenous scholarship and increasing its prominence, however some academics feel ill-qualified to include Indigenous perspectives in their courses.⁵⁵ Repositories of Indigenous resources and materials may address these concerns. Wood notes that such collections should include film, music and art as well as other information resources.⁵⁶ Of course, such resources should be used in a culturally respectful way, and only with the specific permission of the traditional owners.⁵⁷ Burns also notes that academics should be able to access cultural mentoring and sources of Indigenous authority including Indigenous colleagues and Elders.⁵⁸ Universities need to commit to increasing their engagement with Indigenous communities and Elders, and these relationships must be 'long-term' and 'mutually beneficial'.⁵⁹ Of course, any involvement that Aboriginal and/or Torres Strait Islander peoples have with universities must be remunerated, and funds are required to support this.

Participants in our study commented on the unwelcoming, alienating nature of law school and it is clear that relationships with peers can still be experienced as unsafe for Aboriginal and/or Torres Strait Islander students. Watson said of her law school experience 20 years ago that there were 'few spaces in which I could survive' and that she had to 'create a new persona that breathed only black-letter law.'⁶⁰ Particularly concerning is an experience she described where a lecturer made an offensive, racist comment when teaching an

⁵³ Janet Mooney et al, *Indigenous Online Cultural Teaching and Kinship Project* (Final Report, 2017); Ken Nobin et al, *Relationships Are Key: Building Intercultural Capabilities for Indigenous Postgraduate Coursework Students and Their Teachers* (Final Report, 2013); Tony Wain, *Creating Cultural Empathy and Challenging Attitudes Through Indigenous Narratives* (Final Report, 2013).

⁵⁴ Vines (n 44) 51.

⁵⁵ Brydie-Leigh Bartleet et al, *Enhancing Indigenous Content in Arts Curricula Through Service Learning With Indigenous Communities* (Final Report, 2014) 92; Marcelle Burns, 'Are We There Yet? Indigenous Cultural Competency in Legal Education' (2018) 28(2) *Legal Education Review* 1, 3; Irene Watson, 'Some Reflections on Teaching law: Whose Law? Yours or Mine?' (2005) 6(8) *Indigenous Law Bulletin* 23.

⁵⁶ Asmi Wood, 'Incorporating Indigenous Cultural Competency Through the Broader Law Curriculum' (2013) 23(1) *Legal Education Review* 57, 64–5. See also Kwaymullina (n 8) 29–30.

⁵⁷ Martin Nakata, 'Indigenous Knowledge and the Cultural Interface: Underlying Issues at the Intersection of Knowledge and Information Systems' (2002) 28(5) *International Federation of Library Associations and Institutions Journal* 281.

⁵⁸ Burns (n 55) 25.

⁵⁹ As Irene Watson observes, 'the majority of traditional owners/custodians of knowledge are located outside the tertiary sector': Watson (n 55) 2. See also Gainsford, Smith and Gerard (n 14) 60.

⁶⁰ Gainsford, Smith and Gerard (n 14) 60. See also Burns (n 55) 11; Falk (n 52) 9. Similar observations have been made by African-American scholars: see Bennett Capers, 'The Law School as a White Space' (2021) 106(7) *Minnesota Law Review* 7, 11.

administrative law class.⁶¹ We were pleased to find that the Aboriginal and/or Torres Strait Islander students who participated in our research spoke positively of their experiences with law school staff. They said they felt supported by academics and school leaders, however they still experienced unsafe interactions with their peers in the classroom.

Academics have a profound responsibility to ensure the cultural safety of their students in class, including by appropriately and sensitively engaging with Aboriginal and/or Torres Strait Islander knowledges, but also by acting as role models in their personal interactions with students.⁶² Scholars have previously noted the damaging effects that a single student can have on a teacher's attempts to deliver material in a culturally sensitive manner.⁶³ Vines suggests that rules of respect should be established explicitly in the classroom to make it clear at the outset that 'disrespectful statements will not be tolerated'.⁶⁴ She suggests that if a student makes an insensitive remark in class, repeating it back to them can encourage reflection by both the individual and the class as a whole.⁶⁵ Burns and colleagues agree that it is important to encourage dialogue and engagement between Indigenous and non-Indigenous students, on an individual and group level, but that Indigenous students must feel safe to do this and should never be 'looked upon as an authority on everything Indigenous.'⁶⁶

It has been recognised elsewhere that Aboriginal and/or Torres Strait Islander Studies Units make a significant contribution to students' feelings of cultural safety on campus,⁶⁷ and our participants spoke very positively about their experiences with the Unit at UQ. Wood, and Burns and colleagues, separately note the importance for Indigenous people of having a safe place to 'practice your own culture without fear of being ridiculed or being put down or bullied or harassed about it'.⁶⁸ However, Watson notes (in her article with Wood) that a risk of focusing on student programs for Aboriginal and/or Torres Strait Islander students to help them 'fit in' may detract from the overall goal of 'institutional change'.⁶⁹ Douglas further observes that such Units do not absolve individual schools of responsibility for supporting their Indigenous students; she says

⁶¹ Watson (n 41) 4.

⁶² *Indigenous Cultural Competency* (n 39) 19; Sally Kift et al, *Curriculum Renewal in Legal Education* (Final Report, 2013) 51–2.

⁶³ Vines (n 44) 46; Douglas, 'Racism in Legal Education' (n 41) 14; Kevin Dolman, 'Indigenous Lawyers: Success or Sacrifice' (1997) 4(4) *Indigenous Law Bulletin* 4, 5; Wood and Watson (n 2) 8.

⁶⁴ Vines (n 44) 50. As to the dangers of classroom discussions: see *Indigenous Cultural Competency* (n 39) 17.

⁶⁵ Vines (n 44) 61.

⁶⁶ See generally *Indigenous Cultural Competency* (n 39). See also Falk (n 52) 10.

⁶⁷ *Indigenous Cultural Competency* (n 39) 17; Burns (n 55) 22.

⁶⁸ Wood (n 56) 64; *Indigenous Cultural Competency* (n 39) 17.

⁶⁹ Wood and Watson (n 2) 9. See also Kim Brooks, 'The Daily Work of Fitting in as a Marginalised Lawyer' (2019) 45(1) *Queen's Law Journal* 157. Brooks concludes that strategies used by lawyers to fit in 'may give rise to real harm' by masking the 'power that exclusion continues to have': 164, 191.

schools should be ‘guided’ by these Units but that ‘other types of support mechanisms need to be institutionalised.’⁷⁰

When it came to our own programs, participants said they felt safe within the Centre, and they recognised the incidental cultural learning that can take place when engaging in pro bono work and clinical legal education. Evans and colleagues have described the potential for clinical legal education to contribute to individuals’ cultural competency by exposing students to different perspectives and experiences.⁷¹ Maguire and Young note that having contact with Indigenous clients assists students to ‘engage on emotional and empathic levels, rather than just on an intellectual level.’⁷² This has certainly been our experience.

We run several clinical placements at UQ, and they all operate out of metropolitan community legal centres. Several participants in our study raised the value of On Country learning, and this led us to consider the potential for running clinical placements in rural, regional and remote areas.⁷³ Some On Country placements are described in the literature.⁷⁴ For example, Cassidy describes On Country study tours she developed with a view to making ‘Indigenous legal issues “real” for the students’, and to ‘ensure that certain “myths” about Indigenous Australians are dispelled.’⁷⁵ These study tours included visits to Aboriginal communities where students experienced Indigenous culture, language and food, and visited sacred sites. They also visited sites of Aboriginal detention and heard from someone with lived experience of the Stolen Generations. While student numbers were necessarily small, and the project was ‘incredibly time-consuming’, Cassidy reflects that ‘the outcomes for the students justify the effort’ and confirms that ‘ongoing relationships’ were forged.⁷⁶ While experiential learning is widely recognised as being beneficial for students, the potential to engage with Aboriginal and/or Torres Strait Islander communities through clinical legal education programs remains underexplored.

⁷⁰ Douglas, ‘The Participation of Indigenous Australians in Legal Education 1991–2000’ (n 1) 511.

⁷¹ Adrian Evans et al, *Strengthening Australian Legal Education By Integrating Clinical Experiences: Identifying and Supporting Effective Practices* (Final Report, 2013). See also Kift et al (n 61); Narelle Bedford et al, ‘Developing Indigenous Cultural Safety in Law: Clinical Legal Education as a Method for Getting it Done’ (2024) 34(1) *Legal Education Review* 111.

⁷² Maguire and Young (n 4) 115.

⁷³ The Centre now offers Regional, Rural and Remote clinical offerings over Summer: University of Queensland, ‘Regional, Rural and Remote (RRR) Project’ *UQ Law School Pro-Bono* (Web Page) <<https://law.uq.edu.au/pro-bono/rrr-project>>. Note that ‘On Country’ learning involves situating oneself on lands of cultural significance: see further Uncle Charles Moran, Uncle Greg Harrington and Norm Sheena, ‘On Country Learning’ (2018) 10(1) *Design and Culture* 71.

⁷⁴ See William Fogarty and Robert Schwab, ‘Education, Land and Learning’ (2012) 4 *Ngija: Talk the Law* 98; Julie Cassidy, ‘The Classroom “In Country”’: Experiential Learning of Indigenous Legal Studies’ (2012) 4 *Ngija: Talk the Law* 79. Adrian Evans et al (n 71) also discuss the importance of developing clinical programs in collaboration with Indigenous organisations and leaders: 70.

⁷⁵ Cassidy (n 74) 79.

⁷⁶ *Ibid* 97.

Participants in our study made several other suggestions on how cultural safety could be improved through extracurricular programs in law. They noted the value of local place-based learning, and this has also been discussed in the literature.⁷⁷ Pro bono programs could make a significant contribution towards enhancing individuals' local cultural knowledge and providing much needed legal and related services to local Indigenous communities. Our participants emphasised that this required us to build genuine, long-term relationships with Aboriginal controlled organisations and Elders within our community. Our participants' focus on relationships is consistent with the importance of 'relatedness' as a core principle of Indigenous ways of knowing, being and doing.⁷⁸ Burns and colleagues found that cultural competency was 'primarily about fostering meaningful cross-cultural dialogue' and that 'the process' was more important than the 'nomenclature'.⁷⁹ Connections to community can also increase our knowledge about Aboriginal ways which can in turn address cultural biases.

Sadly, we found that internships and paid work opportunities in corporate settings could expose Aboriginal and/or Torres Strait Islander students to racism and other culturally-unsafe experiences. Consistently with Morley's observations, our participants said these experiences of cultural unsafety often take the form of questions about their heritage and culture.⁸⁰ It seems that it is still common for Aboriginal and/or Torres Strait Islander students to be treated as a 'manifestation of their culture' and expected to 'represent it' in corporate environments.⁸¹ This was an important finding for us because some of our programs are undertaken within law firms' pro bono practices and at barristers' chambers. It must also be recognised that universities sometimes adopt corporate cultures themselves; while maintaining students' cultural safety is high on universities' agendas (at least formally), Indigenous academics report high rates of burnout and excessive cultural load.⁸² The cultural safety of both staff and students must be acknowledged and considered by those in leadership positions.

Our participants agreed that cultural-competency training assists in addressing some of these concerns, but they said it should be ongoing and

⁷⁷ Brydie-Leigh Bartleet et al (n 55) 110.

⁷⁸ Karen Martin, 'Ways of Knowing, Being and Doing: A Theoretical Framework and Methods for Indigenous and Indigenist Re-search' (2003) 27(76) *Journal of Australian Studies* 203; *Indigenous Cultural Competency* (n 39) v.

⁷⁹ *Indigenous Cultural Competency* (n 39) 16; Burns (n 55) 21.

⁸⁰ Harriet Morley, 'Breaking the Barriers: Victorian Indigenous Lawyers' (2007) 81(8) *Law Institute Journal* 18, 21, 26. See also Debbie Bargaillie, *Unmasking the Racial Contract: Indigenous Voices on Racism in the Australian Public Service*, Aboriginal Studies Press, 2021, 79, 94–8.

⁸¹ *Vines* (n 44) 52.

⁸² *Indigenous Cultural Competency* (n 39) 17; Wood and Watson (n 2) 8; Kwaymullina (n 8) 12–13. Although, we agree with Douglas that it is critical that law schools employ more Indigenous academics: see Douglas, 'Racism in Legal Education' (n 41) 16.

‘properly integrated’ to ensure it is meaningful and purposeful.⁸³ Online modules are popular, but other methods of training should be available as well, particularly those that encourage engagement with Aboriginal and/or Torres Strait Islander peoples and promote self-reflection.

Like our participants, Watson (in her article with Wood) cautions us against assuming that ‘cultural competence’ is achievable.⁸⁴ We learned that increasing cultural awareness should be ongoing and embedded in our programs. We agree with Watson that our goal as legal academics should be to ensure students are knowledgeable about Indigenous laws and the failure of settler law to protect Indigenous peoples and communities.⁸⁵ As clinical educators, we also assume responsibility for ensuring our students engage with Aboriginal and/or Torres Strait Islander peoples on ‘emotional and empathic levels’, develop skills in reflective practice and communication, and create environments that are socially and emotionally safe for clients from all cultural groups.⁸⁶

VI CONCLUSION

As part of this project, the research team developed a ‘road map’ for embedding cultural safety in our programs. Key goals included:

- Identifying local Elders and local Aboriginal and/or Torres Strait Islander organisations and committing to developing long-term relationships with them;
- Ensuring wide dissemination of existing cultural awareness modules, whilst also exploring options for additional cultural training through Aboriginal and/or Torres Strait Islander owned and operated organisations;

⁸³ *Indigenous Cultural Competency* (n 39) 9. See also Stephen Kinnane et al, ‘Can’t Be What You Can’t See’: *The Transition of Aboriginal and Torres Strait Islander Students into Higher Education* (Final Report, 2014) 70.

⁸⁴ Wood and Watson (n 2) 10–11; Kwaymullina (n 8) 29.

⁸⁵ Wood and Watson (n 2) 10. See also Kwaymullina (n 8) 22–3.

⁸⁶ Marcelle Burns and Jennifer Nielsen, ‘Dealing with the “Wicked” Problem of Race and the Law: A Critical Journey for Students (and Academics)’ (2018) 28(2) *Legal Education Review* 1, 17; Burns (n 55) 25; Maguire and Young (n 4) 115. See also Marcelle Burns, Simon Young and Jennifer Nielsen, ‘The Difficulties of Communication Encountered by Indigenous Peoples: Moving Beyond Indigenous Deficit in the Model Admission Rules for Legal Practitioners’ (2018) 28(2) *Legal Education Review* 1, 1–2.

- Ensuring students who are Aboriginal and/or Torres Strait Islander have an opportunity to identify as such when applying for projects with the Centre;⁸⁷
- Supporting Aboriginal and/or Torres Strait Islander students to attend conferences and other professional networking events; and
- Drafting an Acknowledgement of Country for use by the Centre.

The Acknowledgement of Country was drafted in these terms:

We acknowledge the Yuggera and Turrbal people as the True Owners and Custodians of this land, the waters and the skies. We pay our respects to their Ancestors and their descendants who continue cultural and spiritual connections to Country.

We acknowledge that the TC Beirne School of Law sits on stolen land, sovereignty was never ceded, and no treaty has been negotiated.

We acknowledge the Traditional Law and Lore which was practised upon this land for millennia before the common law was forced upon it, and which continues to be practised today. We acknowledge the injustices faced by Aboriginal and Torres Strait Islander peoples and communities as a result of settler law. We recognise their valuable contributions to Community through activism and advocacy and to wider Australian and international society.

Cultural load was a theme that permeated this research — not just in the interviews, but behind the scenes as well.⁸⁸ While it was important to us that the views of the Aboriginal and/or Torres Strait Islander members of our research team were prominent in the design and execution of the research, we did not want this to translate into ‘more work’ for them. Team members built trusting relationships throughout the process,⁸⁹ and there was an ‘honest exchange of ideas’,⁹⁰ however we are not certain that the correct balance was struck. Throughout the research process, it seemed that the Aboriginal and/or Torres Strait Islander team members did undertake more than their fair share of the work. We humbly acknowledge that we did not always ‘get it right’,⁹¹ but through

⁸⁷ As one of Morley’s interviewees observes, for Aboriginal and/or Torres Strait Islander students ‘it’s not an even playing field. Many of our [Indigenous] law graduates ... haven’t had the opportunities that many other law graduates have had’: Morley (n 80) 22. For this reason, Aboriginal and/or Torres Strait Islander students should be prioritised for clinical and pro bono placement.

⁸⁸ Douglas documented the cultural load of students way back in the 1990s: Heather Douglas, ‘This Is Not Just About Me: Indigenous Students’ Insights About Law School Study’ (1998) 20(2) *Adelaide Law Review* 315. See also Heather Douglas and Cate Banks, ‘From a Different Place Altogether: Indigenous Students and Cultural Exclusion at Law School’ (2000) 15 *Australian Journal of Law and Society* 42.

⁸⁹ *AIATSIS Code of Ethics* (n 12) 14, [1.6].

⁹⁰ Ruby Traucnieks, *Possibilities of Partnership and Cultural Safety* (Speech, University of Queensland, 12 October 2023).

⁹¹ We feel encouraged by Burns and Nielsen’s (n 86) acknowledgement that they also ‘did not always “get it right”’ and we note their commitment to modelling humility: 28.

this project, we learned the importance of honest communication and creating a culture of openness to allow for the airing and addressing of these matters.

The impact of cultural load on Aboriginal and/or Torres Strait Islander participants is an important issue for all researchers, but particularly those who engage regularly with Aboriginal and/or Torres Strait Islander peoples. Ensuring we maintain genuine relationships with Aboriginal and/or Torres Strait Islander peoples, seeking and embedding their perspectives, while also minimising their cultural load, is a difficult balance to strike. One of our participants said this research project was an example of cultural load, however others spoke positively about the interview process, and said that having the chance to reflect provided them with some ideas that they would take back to their organisations and colleagues. This is consistent with Te Aho and Morse's experience — they said an unintended outcome of their research was that individuals engaged in a 'cathartic and liberating sharing of experiences'.⁹²

Our findings are specific to their context, and it is important that investigations such as this are conducted at other universities, and in other schools. While we made some important findings in respect of our Centre, School and University, there is a diversity of experiences and perspectives to be shared. Our participants emphasised this, and often reminded us that they spoke only for themselves and of their own experiences. We learned the importance of building local relationships to address local concerns, and that discussions should be ongoing and long-term. We encourage all law schools to facilitate similar conversations as we all continue to build cultural competency and create culturally safe spaces for students, staff and partners.

⁹² Linda Te Aho and Bradford Morse, *Indigenous Cultural Competency for Legal Academics Program Final Evaluation Report* (Final Report, 2018) 14.