

“THIS IS NOT JUST ABOUT ME”: INDIGENOUS STUDENTS’ INSIGHTS ABOUT LAW SCHOOL STUDY

INTRODUCTION

INDIGENOUS law students continue to fail to complete law studies in disproportionate numbers as compared to non-Indigenous students.¹ Historically Indigenous people have been excluded from mainstream education² and it is only in recent years that the number of Indigenous law students enrolling in law studies has been increasing. This is likely to be partly a result of the focus on affirmative action programs in the 1980s.³ Access has increased but completion has not increased in a proportionate fashion. There has been very little research into possible reasons for this.

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1 See Lavery, “The Participation of Indigenous Australians In Legal Education” (1993) 4 *Legal Ed Rev* 177 at 180. Lavery found that attrition rates among Indigenous law students were around 75%. See also Bourke & Burden, *Factors Affecting Performance of Aboriginal and Torres Strait Islander Students At Australian Universities: A Case Study* (Department of Employment, Education Training and Youth Affairs, ACT 1996). This study found that while 83.3% of non-Indigenous students completed their studies, only 59.3% of Indigenous students completed their studies. Their study covered a range of disciplines. It is likely that the completion rates of Indigenous students studying law would be lower as Lavery’s study suggests. Both the enrolment proportions and the success figures for Indigenous students in professional degree courses such as veterinary science, medicine and architecture are significantly lower than in courses such as humanities and science. See Yunipingu et al, *Statistical Index, National Review of Education for Aboriginal and Torres Strait Islander People* (AGPS, Canberra 1994) p111. I am not aware of any studies that analyse why this may be so.

2 See Bin-Sallick, *Aboriginal Tertiary Education in Australia: How Well is it Serving the Needs of Aborigines?* (Aboriginal Studies Key Centre, South Australian College of Advanced Education, Adelaide 1989) pp4-14 for an interesting historical overview of indigenous involvement in mainstream education.

3 See Lavery, “The Participation of Indigenous Australians In Legal Education” (1993) 4 *Legal Ed Rev* 177 for an overview of the alternative entry programs available to prospective Indigenous law students in 1993. In the three Queensland law schools which are the subject of this paper there are currently between 20 and 30 Indigenous students enrolled.

Some studies which have sought to examine attrition rates amongst entire universities and faculties have found there is often a low response rate of Indigenous students to surveys and questionnaires.⁴ The research presented here imparts some of the insights of twenty five Indigenous students and gives some explanation of why Indigenous law students are not graduating from law school at a higher rate. The students interviewed in this study have been enrolled in or continue to be enrolled in law studies since 1993.

There is a tendency to perceive that failure to complete the degree is not a positive outcome of law study. There appear to be two main reasons for this perception: the first is wastage of resources, that is that money spent on assisting a student who only reaches first year could be better spent fostering the success of students who will complete their degree. The other reason for reducing attrition rates, particularly with respect to Indigenous students, is to increase the number of indigenous law graduates. It is this second motive which informs this paper.

Twenty five⁵ Indigenous people have been interviewed during this project.⁶ At the time of interviewing nine had discontinued law studies, eight had completed law studies since 1996 and eight were in various stages of their degree. The eight students currently continuing law study ranged from their second to their final year of study. Students interviewed had studied or were studying at the University of Queensland, Queensland University of Technology and Griffith University. All three institutions are located in the Brisbane metropolitan area. In spite of the students' differences (which law school they attended or were attending and what stage of study they had reached), students from all three universities gave remarkably similar responses. The respondents were interviewed in an informal way at a location of their choice for between one and two hours. Their interviews were taped and transcribed with their consent.

4 See for example Otto & Sarmas, *Student Diversity in the Law School: The Impact of Language, Socio-Economic and Cultural Background on Students' Experience in the Law School* (Equal Opportunity Committee, Law School, University of Melbourne, Melbourne 1996) p2 and Ramsay et al, *Outcomes of a University's Flexible Admissions Policies* (AGPS, Canberra 1996) p20.

5 It is difficult to make a reliable estimation of how many Indigenous students have studied law at the Brisbane metropolitan universities since 1993. This is because some students choose not to formally identify as Indigenous and others defer or discontinue studies before the first weeks of first year are over.

6 For a discussion of a similar study conducted at the University of New South Wales, see Penfold, "Indigenous Students' Perceptions of Factors Contributing to Successful Law Study" (1996) 7 *Legal Ed Rev* 155 esp at 169. The University of New South Wales Law School is perhaps leading the way in Australia with respect to the graduation of Indigenous lawyers. The students in Penfold's study found that the atmosphere of the UNSW law school was one of support and encouragement which contributed to their success. Generally the students in the Queensland study were less positive about the environment at their law schools.

Given the variables associated with the study⁷ and the small sample size, the study can not present any hard empirical data. At the outset this was not the intention of the study. The study presents a picture of what this particular group of law students perceive to be the main barriers to the completion of law study. The group were asked about factors such as poverty, educational background, cultural isolation, family commitments, lack of role models, university environment, and support networks at university.⁸ Their comments on these issues and other issues that they raised are reproduced and discussed below. The factors are discussed in order of importance as generally understood by the students who were interviewed. Their comments are loosely categorised: many of the comments could be placed in more than one of the categories and there is clearly overlap between some of the categories.

I have deliberately refrained from making many firm conclusions in an attempt to let the students' comments "do the talking". In any event, there seems to be very little connection between the factors discussed and a likelihood of completion or discontinuing law studies. Regardless of their respective backgrounds almost all students interviewed found their law school experience difficult and disheartening. Factors such as having children to support, leaving home to study, and differences in students' gender, age or educational experience prior to law study did not seem to create any certainty of completion or otherwise. What is clear is that the cultural alienation experienced by most Indigenous law students at law school is profound.

WHY INDIGENOUS PEOPLE STUDY LAW

While being interviewed, students were asked why they chose to study law at the outset. Reasons for choosing to study law ranged widely and ultimately do not elucidate any particular trend in terms of completion, lack of completion or of commitment to complete their law study. For many of the students an interest in helping their own communities, or those from "minority groups", was an important factor in their decision to study law:

I really would love to do some sort of community work with minority groups, just on the side of what I do even. You get sick of people picking on them.

I had this romantic view of the law. I was in the LA Law generation, and I thought that if [I] studied law I could really help my people. ... I told my

7 For example the respondents were of different ages and genders and had attended different universities during different periods of time.

8 Two focus groups were conducted before interviews were commenced in order to draw out the issues students believed shaped their law school experiences. I note that in order to maintain the confidentiality of the respondents I have avoided making links between which students completed studies or failed to complete and the factors which specifically affected them.

Dad that I wanted to be a lawyer when I was 9 years old, because I think it took me that long to figure out what being a lawyer was. It was also at that stage that the Lindy Chamberlain trial was on and there was huge media publicity and the house I grew up in was very political.

I want to do something that can help my people. ... I would like to become involved in Aboriginal policy and things like that.

One of the strongest factors drawing Indigenous students towards law study was their involvement, usually through family members, with negative experiences involving legal institutions such as courts, police, lawyers and correctional institutions. This was often linked by students in the interviews with a desire to assist people in minority groups. The following comments illustrate this point:

I have so many cousins who have been in custody and my mum she is at the moment looking into welfare rights and Aboriginal slave labour. ... I know for a lot of kids education is like a right, but for me I'm the first generation in my family and I wanted to make something of myself and to aim high ... to be involved in human rights ... like maybe one day the United Nations.

My brother is 25 soon, he is the criminal in the family. ... He does drugs. ... He is gay and stuff and he is in jail now. He has been in jail before. ... He used to see Dad ... hitting and fighting. ... Dad used to abuse the boys and hit them. Dad is not like that any more. ... My brother also has HIV. He has had a pretty traumatic life. ... He was molested by an uncle when he was younger and he was in homes for stealing. ... My other brother doesn't do drugs, he just drinks himself into stupidity ... and gets in strife. ... That's why I am doing it.

I have so many cousins who have been in custody.

I think in our situation drugs and alcohol have been a problem which have caused disputes within the family. A lot of my male cousins in particular have been in custody and a couple of the females.

My family have all had strife or brushes with the law. ... It's not hard to be in trouble when you are aboriginal and angry with things.

The attraction to law study for this reason is perhaps paradoxical. I have argued elsewhere that this type of negative involvement in law is likely to be a discouraging factor;⁹ that

9 Douglas, "Indigenous Australians and Legal Education: Looking to the Future" (1996) 7 *Legal Ed Rev* 225 at 229.

these types of negative experiences have the effect of discouraging law study. This study, however, suggests that, for some students, negative family involvement with the justice system may actually create an interest in law study.

Three students interviewed had been working in the prison system prior to studying. One of these students had become disenchanted with the way warders operated in the prison where he worked. He suggested the following motivation for studying law:

Well, you could not change it from the inside ... so I decided to come round from another angle and study law ... because I believe in the law. ... If we take it away we are all going to be carrying rifles or something. I have been in places where there is no law. I have stood around in blood and guts where no rules apply ... and that is pretty tough.

Another student suggested that his motivation to study law related to showing his community it was possible for an Aboriginal person to do such a thing:

One of my main reasons for doing law was to prove that an Aboriginal could do something else ... doing something different to the other black people in your community. ... There are no black graduates from around where I come from.

Family expectations were also named as a major motivator for wanting to study law, which is no doubt the case for members of other student groups as well. However the pressure is likely to be heightened for Indigenous students who are likely to be one of very few members of the extended family who have been to university to study, let alone to study law. There are other related aspects, such as an historical exclusion from education¹⁰ and an appreciation that study is not just about the student as an individual but also the student as a member of an Aboriginal clan or extended family group, that may increase the burden felt by the student:

There are family expectations because we are doing something and it's good to see that Aboriginal people are going somewhere.

Mum and Dad expected me to go to university. ... Like, what are you going to do if you are not going to university? Are you going to work? I always wanted to go because I had good marks and I went to a good school and so it was a natural progression. ... I don't really feel the family expectations because I feel them myself anyway ... because if I don't finish this then what am I going to do?

10 See Bin-Sallick, *Aboriginal Tertiary Education in Australia: How Well is it Serving the Needs of Aborigines?*

Studying law isn't just about me: it's about all of us.

I am not here for myself. ... I have this thing on my wall which says "this is not just about me" and I am not here to earn money and be rich. ... I am here for my extended family and here for all Aboriginal people, and there is that constant pressure all the time.

Two students, both single mothers, believed that studying law provided the opportunity for a financially secure lifestyle:

I thought "I have a daughter" and I wanted a better lifestyle and I don't want her growing up like that ... and having the same problems and I thought I would try and do law.

I was trying to save money to go overseas ... and then I fell pregnant and all my plans were dashed. ... I had always wanted to study law. When I was younger I would have liked to have been a productive community member and do things for community people and even when I did apply ... that was part of my reason but most of the onus was for myself and my son and [to] ensure that we had a secure future.

Overall financial interest was not a major motivating factor for this group of students. Only two students expressed an intellectual interest in the subject matter of law.

I wanted to go because I liked learning about law but it took me one day to realise that I did not fit in here and it was pretty much an instant thing.

At school I liked legal studies. And I have always liked to argue about things. ... Like, everyone has one point of view and I always have a different point of view ... and I have always wanted to be one. ... I liked all the law shows.

It is interesting to compare the motivations of the students in this study with the findings of a 1995 study which surveyed a large number of first and final year law students around Australia about their motivation for studying law. The reason in the 1995 study which attracted the most votes at both levels was "an interest in the subject matter of law".¹¹ The motivations of the students in this study offer some clear contrasts to the 1995 study. The lack of interest in studying law for its subject matter by students in this study may suggest a lack of understanding by many Indigenous students of what law study is about when they embark on it.

11 Aust, Department of Employment, Education and Training, *Career Intentions of Australian Law Students* (1995) p33.

Penfold's research has suggested that the individual motivation of students to succeed is an overwhelming factor in successful completion.¹² However many of the students interviewed in this study believed that, although they had started study with a high personal motivation, this had not always been enough.

ALIENATION

All of the students interviewed described a feeling of alienation and isolation at law school as the major factor for them in their decision to discontinue law studies or the reason that was their greatest barrier to completion of their studies. The sense of alienation was described by students in different ways. It related to their relationships with both non-Indigenous students and other Indigenous students and to lecturers. Even alternative entry procedures and Indigenous support units, which have both been set up at all three universities involved in the project to encourage and assist indigenous people, can sometimes provide alienating experiences.

Alienation from the University System

Fourmile points out that "Aboriginal people feel ill-at-ease and self conscious when entering white institutions which emanate an entirely alien cultural presence."¹³ All of the students interviewed found the law school institution to be an intimidating place. Some of the students interviewed indicated that the reasons for their sense of alienation were difficult to separate out and understand. Some students' comments illustrate this point:

ATSI¹⁴ students are not used to the environment at university and, like a lot of my cousins and friends, ... people perceive them as this stereotype, then that is what they expect them to be. ... They complain about it but they don't ever go out of their way to change it. ... In general, like, Aboriginal people steal ... or all Aboriginal people are fighting, but people just say it and say it so much that they believe it themselves and then they do it. ... If you are told for long enough you are rubbish you start to think it. ... It's like people say you are dumb. You are not actually dumb but you believe it. ... My cousins are always told they will never amount to anything but pensioners.

The problem is that you are disorientated by the system. ... You don't understand what is going on. ... You come here, you don't know anybody, there are no support networks, no family or friends. They slog their guts

12 Penfold, "Indigenous Students' Perceptions of Factors Contributing to Successful Law Study" (1996) 7 *Legal Ed Rev* 155 at 161.

13 Fourmile, "Who Owns the Past? - Aborigines as Captives of the Archives" (1989) 13 *Aboriginal History* 1.

14 Aboriginal and Torres Strait Islander students.

out at uni, crying themselves to sleep ... then they go back to their communities and they get treated badly. They become nowhere people. When you hit law you don't know what is going on; nothing is ever explained. ... There is no two-way learning; you are just talked at. That disorientates you even worse.

I don't know how you can stop people dropping out. ... The thing they can do is not make it such an alien environment. ... You can have a support/ liaison officer in the faculty. ... There are the social reasons like separation from family, expenses of being a full time student ... It would be good if the law school could liaise with the Murri unit and the Murri unit could liaise with different Aboriginal services.

I was just in awe of the university ... educated people.

In most cases it's not the course work or level of difficulty. ... It's more to do with the environment ... the routine and that sort of thing ... and the way people relate to each other. ... White students are accustomed to getting up and asserting their rights. ... Indigenous students aren't accustomed to doing that.

I feel under siege in the classrooms. Like, there was this guy last year. ... Well, I was considered a great person ... but it was my aboriginality. ... It was having to deal with me and my aboriginality.

Most people who go and do law ... are generally from white middle-class ... but it is hard to come in as an Indigenous person. ... Well, you have been told your whole life how to fear white people. ... My aunty and grandmother are just afraid of white people. ... They really do think they are inferior because they are like domestic servants. ... It is programmed into their mind ... you don't trust white people.

These comments illustrate the complexity of students' understanding of their alienation. Clearly a lack of personal confidence is an issue. As well as this, the lack of value associated with Anglo education which sometimes exists within students' own communities creates another barrier.

Alienation From Non-Indigenous Students

Students constantly asserted that one of the strongest barriers to success was a feeling of being different from other students. Differences in class background was one aspect of this but racial difference was a major contributor to this sense of alienation. In analysing the students' responses, it is difficult to separate out race and class. Ultimately the responses tend to emphasise the link. Monture has described the sense of alienation she felt as a

Native Canadian law student as “layered like an onion”¹⁵ and the students’ comments illustrate this feeling as well:

Doing law was the worst experience of my life. I was from a lower working class family, I was the only person who went to a state school, I was indigenous, I worked and I rode a bike because I did not own a car, not a good combination at law school. I was absolutely ostracised.

In my first week here [at law school] I just thought “I don’t belong here”. ... It was hot and I turned up in masseur sandals and shorts and a singlet. ... I needed glasses but my mum could not afford them ... so I was sitting in the front row. There were people near me in nice little suits and I was just really interested in the lecture and I kicked off my shoes and I was leaning back listening and my hair was a mess and I looked around and people were looking at me. ... Since then I don’t spend much time here now.

I brought expectations and luggage with me to law school. ... The people I was with had different goals and there were things that ... when I would sit in a lecture room with all these young kids from private schools who had friends because they came from places where parents did that. ... I came from a different place altogether. ... People I had things in common with would not have been there, just like I did not want to be at university.

I did not mix within the law faculty. ... I remember my first few days everyone was asking “what school did you come from?” ... They basically mix with people that they went to school with. ... I made a few friends ... but I just preferred to stay out of the law school.

Most of them [law students] tend to come from reasonably well off families. ... I did not feel the need or obligated to mix with people like that.

Most students perceived that they were different to the other students at law school: they saw themselves as outsiders. The reason for this sense was difficult for some students to express and went beyond simply their different socio-economic background:

I was not one of them because I was different. I just wanted to be like everyone else.

15 Monture, “Now That the Door is Open: First Nations and the Law School Experience” (1990) 15 *Queens LJ* 179 at 207.

I have about 14 aunties and uncles on my mum's side ... so everyone knows your business and that's really hard. ... We had a hard childhood. ... When my father died we had to move from our farm into a housing commission area which was a bad neighbourhood. The police would always be around and there were a lot of drugs. ... I have memories of mum working part time because that is all she could get and she had no education and coming down to dinner and all we had to eat were potatoes and then we would go to Cherbourg and Brisbane and be with our families and you would see uncles bashing your aunties and little cousins being abused and seeing people that you respected just stumbling around because they are drunk. ... It was a really mixed childhood. ... I felt so different from the other students.

Some students found that the student body was simply part of a whole life experience that was inherently racist:

I remember as a child someone spat at me from a car window. I have been urinated on. ... I have been abused. ... When I used to go away for track meetings ... I used to run barefoot and I have been spiked so many times ... dirty play in hockey tournaments. ... When we rented this place we actually sent my dad's sister who is white and who has a flash car to make enquiries. Law school was more of the same really.

In my first year I ended up putting some people on sexual and racial harassment complaints and got it investigated ... so I went into my final exam pretty stressed.

Alienation From Other Indigenous Students

The presence of other Indigenous students in the law student body did not necessarily assist in alleviating the sense of alienation, especially where the student perceived that other Indigenous students were from different places, were fairer skinned or appeared to be fitting in with their non-Indigenous counterparts:

I know there are some Aboriginal law students who are studying here ... but a lot of them are from Brisbane you know ... and a couple of times ... they have made fun of mission blacks and Cherbourg and they would be laughing and say they went to Cherbourg the other day ... "Never go there again, hey. ... Them ones too rough for me" ... and, you know, I just feel like how can they run down their own people and we should be a united race ... and I'll come here (to uni) and some of them will be wearing make-up and so on.

I am quite dark and a lot of the ones here are quite fair and so it's the racism and it is not so in your face for them, I feel. It is sort of like they are camouflaged. ... They can slip in ... and be who they want to be.

Perhaps Indigenous education units can play a more active role in helping to break down barriers between Indigenous student groups. Given the limited numbers of Indigenous students at most tertiary institutions, it is important to cultivate a sense of solidarity. Informal mentoring schemes could be developed between students with the assistance of these centres. This may also have the effect of providing students with role models so that their study motivation is maintained.

Gender

It was especially important for some of the women interviewed that there were other Indigenous students who were also female and when this was not the case their own involvement with study degenerated:

I don't have much contact with other students. ... Last year I did because there were more girls ... but I don't let myself get involved any more and I don't sit down and have lunch with anyone.

It was pretty good because we were all girls and we got along during the bridging course. ... I just sort of kept to myself and the only friends I made were the girls [in the bridging course]. They kept me going.

In 1995 Griffith Law School ran a five week pre-law program for indigenous students. The intake of students consisted of seven Indigenous women. The comments above were made by two of the women in that program. The retention and success rate of this group has been quite high: to date three of the students in the group are continuing with their law studies. It may be useful for some consideration to be made in relation to this issue when student intakes through alternative entry are being considered.

Homesickness

Loneliness and homesickness was a recurring factor for students who were studying away from home. Many students interviewed had left their homes and travelled some distance to go to law school. For most of these students the shift was double-edged in its effect. On one side, students were able to avoid some of the demands and responsibilities of family life and obtain the space and distance necessary for study. On the other side, students found that they felt isolated and alone when they moved away.

I was in the city doing law and I did not do very well. ... I did not pass. ... Then I went to the Gold Coast. ... I found the Coast more like where I am

from. ... It's not busy like Brisbane. ... Like, Brisbane to me was too big; there was a lot to see.

I am really close to my mum and she rings me as often as she can and I go home on weekends, and so I basically have no life during the week and then on the weekends I go home by train for three hours ... just relax.

I got involved in a relationship ... because I did not have much family and I was homesick. ... I felt isolated ... like everyone is up north.

I have considered withdrawing from law school. I think in my case most of my family lived around Brisbane or within an hour's drive ... whereas a lot of Murri students who were in other disciplines dropped out because ... we had people from Cairns, Hopevale. ... It would have been very difficult ... the uni is huge. Add that to the pressure of being isolated from your family. ... I also didn't have my own family to look after. ... A lot of people had kids to support. ... They really struggle.

When I first came here I was freaked out. ... It took me a year to adjust to the fact that it was really big. Even the campus was bigger than my home town. ... It was a big adjustment.

In situations where students had moved some distance from family to study, it was suggested by one student that the reasons for withdrawal were a mixture of loneliness coupled with a need to return home to carry out responsibilities to family.

My cousins and stuff who have come down from TI ... I know with them there is not the expectation that they will go to uni. ... In fact it's quite the opposite. ... People encourage them often to stay at home ... and remain in the community ... so they come down for a semester or a year ... depending on how homesick they are. ... They generally go back for a time ... but the family ties are so much stronger, there is always something. ... You always have to be back at home for some reason ... like someone died ... so someone had got something ... or the family needs you.

Lecturers

For many of those interviewed, lecturers succeeded in exacerbating the students' sense of cultural isolation:

I was a research assistant for one academic and she was having a talk with the Dean that I overheard. Basically she said she wanted to be sub dean of minorities and he said "What do you mean?" She said "... non-English

speaking background students, Aboriginal and Torres Strait Islander students, unequally-abled students” and so on. He said, “Why would you want to do that? There are not enough of them.”

I have a friend who is very proud of her Murri heritage and one lecturer said to her “How can you be a spokesperson for your people when you have such fair skin?” ... They really need cross cultural training ... but it will never happen.

The law school was very narrow minded. ... When I started this job I bumped into a person from the law faculty and he said “Well, you should take advantage of all the opportunities that you have”. In other words, “You are a token appointment”. ... He is a senior lecturer in the faculty and he was trying to be nice. ... He was saying “We understand you have all these advantages and we won’t put you down for taking them but you should take advantage of your opportunities”.

I thought it was alcohol but mum could flog us stone cold sober. ... I saw an attempted murder when I was young and there was blood everywhere. ... There is a tremendous amount of psychological damage and there is something to be said about whether a person carries around the sins of the father. ... It is true. ... There is this absolute belief in authority, and to act without fear in your heart is a learned process. ... There was this case we studied on Robin Kina, the one that looked at battered women syndrome,¹⁶ and someone would ask racist questions. There were silly little jokes and the lecturer would address them seriously. There’s a fine line. Obviously they have never been raped in their lives and their hearts have never been broken.

I had to do a presentation and I was dressed like a clown ... and I was trying to be who I wasn’t. ... All the people laughed and the lecturers smirked and put their hands over their mouths and at that stage I was terrified.

Other students complained that their teachers tended to overemphasise the racial stereotypes associated with indigenous people. Amongst law students, who have a tendency to be conservative, this type of emphasis only serves to further entrench already existing racist attitudes.

I think support should be improved but its hard for me to say how because I’ve done it pretty mainstream I think ... some of the subjects. There has

16 See Rathus, *Rougher Than Usual Handling: Women and the Criminal Justice System* (Women’s’ Legal Service, Brisbane 1995) for a discussion of the history of this matter.

been a bit of racist lecturing and stuff like that ... and I have really wanted to speak to the lecturer. ... Like, they point out a fact that a person or defendant is Aboriginal ... and it's not necessary because in a lot of the cases ... they kind of think that a drunken Aboriginal person got their arm burnt off in a fire and did not feel it ... in torts or something ... or there are some corrupt council organisations ... and [they] do not say Greek person or something or Irish ... so why point out Aboriginal person because that just perpetuates people's negative stereotypes and ideas and concepts that law students who tend to be so conservative anyway have about Aboriginal people.

It seemed to be that most of the time aboriginal people are mentioned in the law classes ... it does not seem to bear any relevance to the point of law you are studying.

We did about one lecture on *Mabo* and it was basically defining what Murris can't take and it is not a real threat to you, so it was more in terms of what white Australia had to lose rather than the positives. ... The only other time that we mentioned Murris was in first year and we did a little on the small claims tribunal and my tutor said she had little respect for it because if you were an ordinary white Australian you would have no hope but if you were a one legged aborigine you would. ... I was a 17 year old kid who was scared to be there anyway and so I could not speak up and defend myself and she would have taken one look at me and said you aren't Aboriginal ... so ...

I went for [a] law job at uni and the panel said I had lovely dark skin, and asked if I was Greek or something. I said "No, I am Aboriginal" and the room went silent and that was the end of the interview. ... It really annoys me that I can be Greek or German or anything but Australia's idea of Indigenous people is Aboriginal people who live natively.

The traditional lecture format can be particularly intimidating for Indigenous students. A great deal of research has been undertaken in relation to the type of informal learning environment many Indigenous people experience in their homes. It is arguable that this informal environment does not adequately prepare students for the type of formal learning environment they encounter at school and university.¹⁷ Lectures can represent the antithesis of that type of environment for Indigenous students. It needs to be recognised

17 Kinslow-Harris, *Culture and Learning: Tradition and Education in Northeast Arnhem Land* (Northern Territory Department of Education, Darwin 1980) pp21-22. See also Malin, "Why is Life so Hard for Aboriginal Students in Urban Classrooms?" (1990) 18 *The Aboriginal Child at School* 9.

that other student groups, for example women,¹⁸ and, as one student points out, students who come from a non-English speaking background, the lecture style can be intimidating as well.

I have an holistic view of learning and if you don't understand then you feel like people are leaving you out. ... You are already in an environment that you do not feel comfortable with and then you don't understand what is happening and what is going on ... and people dictate. ... I put my hand up in a lecture and the lecturer would gasp "we don't have time for questions" ... so you just write. I had a bit of a bond with the Hong Kong law students. They were struggling as much as me. ... It made you feel even more left out.

I find in her lectures everyone just sits and listens. She is distant and not close. ... Blackfellas are close.

For all of the students interviewed, Indigenous students made up less than 2% of the law school population in any given year. One student commented on the inevitability of being singled out and that this should be accepted by Indigenous students if they choose alternative entry:

I think that if I want to be recognised as just another student then I think don't apply to try and get into university under the banner of being an Aboriginal and Torres Strait Islander student with special needs. ... If you get access under that criteria you have to wear it. I did not feel segregated and I did not have any funny feelings going under this banner.

However this kind of singling out was not a positive experience for some students. This served to increase the pressure on the students to perform:

I did not make any friends there at all. ... They were watching me simply because of the things that I had done at high school. I would not have taken this as a positive thing; lecturers were just watching me because I had achieved and I was Aboriginal.

There were bad things that happened. [The lecturer] would introduce me as "the Aboriginal student". This put me off; he set me up as something to watch.

Interestingly, for one student the lack of attention was problematic. Like other students who were interviewed, this particular student came from a school where she had been a

18 See Mossman, "Gender Issues in Teaching Methods: Reflections on Shifting the Paradigm" (1995) 6 *Legal Ed Rev* 129 at 135, 139.

high achiever and had received a lot of interest from teachers. For her the university encounter provided the opposite experience:

Uni is not what I expected. I expected it to be bigger than high school but, I don't know, it was so different. ... High school does not prepare you for uni ... and you know your teachers personally ... and like every now and again my teachers rang my home and I'd go visit them. ... Like, here they don't care. ... It is either you turn up you don't, whereas at school your teachers were always there and concerned and worried about you. ... At uni you don't have that.

Clearly a balance needs to be found between the two extremes so that students feel supported and welcomed but on the other hand that they don't feel displayed as objects or prizes by the law school. The burden is again placed on university staff to get the balance right. As one student suggested, cross-cultural training may help.

Alternative Entry Interviews

At the time these students were interviewed all three of the relevant universities (University of Queensland, Queensland University of Technology and Griffith University) had alternative entry programs in place. Alternative entry procedures tend to be highly discretionary and based on an interview with a panel made up of law school academics and members of the Indigenous students' support unit. It is perhaps ironic that students' experiences of alternative entry interviews is often harrowing and overwhelming. The initial encounter is often recognised by students in retrospect as a preview of the state of things to come when they start their studies.

I just felt that the guy who interviewed me ... did not seem interested in me and only interested in getting his quota of Aboriginal students filled.

They were very tough on me. I remember that I was close to tears in the interview because it was very intimidating. I was a 17 year old kid from the country. I had never met a professional person before. Well ... my Dad had had some involvement in setting up Murri organisations in Brisbane and my Mum was a school teacher, so there was some education background in the family, but I had never met a lawyer before.

I had an interview with the Dean of the Law school ... and the Dean asked me questions ... and he was a bit too conservative and upper classed and I think you needed to be one of those filthy rich lawyer's daughters or sons to be there. ... It was horrid.

A staff member who had been involved with selection panels for alternative entry for Indigenous students relayed an example where a fair skinned woman came to the interview

with her darker skinned mother. One of the panel members who was representing the law school asserted that it was impossible that the pair could be mother and daughter because of the difference in skin colour.¹⁹

Another student was transferring from another discipline. In spite of the fact that her marks were high enough for mainstream entry, she was required to attend an alternative entry interview:

This white guy from the law school was grilling me and saying "Can you justify why you should have a place in our course?" and I was saying "I am a smart girl". He looked at my results and said ... "You are a smart girl so what are you doing here?" I found the whole thing distressing. ... I had slaved my guts out and they just want to say we have two Indigenous law students. ... Well, hello ... we would have got in on normal entry yet you are pushing us through special entry, taking the places of other indigenous people who could be there.

Often students who attend these interviews have low self confidence and previous negative experiences in educational institutions. Alternative entry procedures should be designed to encourage the student to give their best so that a true assessment can be made of their potential. Often this is made impossible by the existence of racist attitudes amongst the selectors themselves. The interview should also be viewed by the selectors as an introduction for the student to the law school. Some students asserted that they chose other institutions on the basis of the treatment they received in interviews.

One student suggested that the whole notion of alternative entry was problematic:

One of the things I have always felt with special entry is that we were lumped into the same category as students with a disability. ... On the one hand, it was good because you get to go to university. ... On the other, there is a stigma attached.

The preceding headings all relate back to a sense of exclusion being perceived by students on the basis of their race. One student, who had had particular difficulties with non-Indigenous students, reflected on how racism works:

I had to realise that I did nothing wrong. ... It was not me ... but I could not understand. ... That is what racism is about. ... People do things for no good reason. ... You don't mean anything personally to them.

Racism has been described by Goldberg²⁰ as "chameleonic and parasitic". It is by essence both difficult to recognise and to eradicate. Given its nature, responses to it have to be adaptable and flexible.²¹ Cross-cultural training may assist here but it needs to be focussed on staff as well as students.

Indigenous Student Support Units

Many of the students interviewed gained some useful practical support from Indigenous Student Support Units, such as photocopying and using computer equipment:

I basically go to the centre to type up things or go on the Internet ... but it was better last year when we all used to go there.

I did everything by going through the support unit: letters for extensions - the law school were very receptive to that sort of thing.

One student only discovered after being accepted to study law that a support unit existed:

I was thrilled actually. ... All through my working life I have done it tough ... and I had been existing in a foreign world. I had to adjust my language and talk in a proper fashion ... and here I could be myself.

However many students complained that these units were over-politicised, which often stifled the social support network that could be usefully developed between students and staff in these environments.

I used the support facilities there but at that time there was a lot of politics and there was what we knew as the student-staff divide.

But Murri organisations in particular are highly factionalised ... and so there was constantly in-fighting at the unit and there still is today and there is no real support there just for law students.

Lots of stuff happening at the unit and it was very politicised. I tried to remain neutral because my belief was that we are all in a bad situation here and the only way to make it better is to stop fighting amongst one another. Some people at the unit thought I was too active generally at university and not active enough in Indigenous issues.

20 Goldberg, *Racist Culture: Philosophy and the Politics of Meaning* (Blackwell, Massachusetts 1993) p21.

21 Thibodeaux, "How We Maybe Maintain Racist Cultures Through our Educational Practices and Principles: A Work in Progress" in Harris & Malin (eds), *Indigenous Education: Historical, Moral and Practical Tales* (Northern Territory University Press, Darwin 1997) p37.

It is difficult enough for academics generally to maintain a student focus given current pressures to produce research. It becomes even more difficult for indigenous units which have the added pressure to be politically active and which are not funded adequately to support these extra expectations.

FAMILY RESPONSIBILITIES

Almost all of the students interviewed emphasised their connection to their family as an intrinsic part of their lives. Students asserted that the connection is not something that can be suspended when study is required. Students also recognised this sense of connection as being different to the kind of family connections experienced by other student groups:

You are a family and always together. ... You go somewhere, you ring the rest of the family and ask them whether they want to come. ... It is never just you and your own immediate family. ... It is everyone. Everyone jumps in the car and you have a few cars following you. ... It is always like that ... even when you study.

I mean you should see all my cousins. ... This is the Aboriginal part, you see; they are everywhere and making demands.

There are often personal or family problems for Indigenous people when they go to uni because as Indigenous people we sort of grow up really close to our families and we have that cultural thing.

You get caught up in family burdens and responsibilities and stuff, then that is a big factor ... because, you know, part of my reason for taking on that responsibility was because that is how you are taught: ... you are the oldest, you tell the other ones what to do ... and they should listen.

Students ultimately require an individualistic focus in order to be successful at law studies. This type of focus seems to be at odds with the way Indigenous students perceive themselves:

One of the people I work with says to me you have to focus on yourself but you know the whole aboriginal existence is family. I had a little cousin who was being bashed last week and he calls me mum sometimes and I feel selfish for worrying about myself when my little nephew is being beaten and crying, and he stays with us for a while.

You can see the decline when students have to go to Cairns or somewhere and see a sick mother, and you feel sorry for that.

The decision to study can be a difficult one to make and can lead to family tensions. One student hoped that her family would respect her decision to study and was extremely disappointed when the demands made by her family were not reduced:

I am feeling really cut towards my family because at the time when I was studying which was a time which was [a] really important part of my life for me and when it came to crisis time I gave them my time because of my love for them and my sense of responsibilities for them. ... Now we have come to wars.

Students saw the commitment to family as deeply rooted and not something that could be negotiated away. Certainly the family connection was not always conducive to successful study:

Our obligations to our families are very different. ... If your father says that your mother is sick and you have to stay home ... you just don't think about answering back.

If I want to be alone I would say ping off [to my boyfriend] because I have got to do this and if I do not do this then it is my life I am destroying so go away ... but unfortunately I could not say that to my family.

Often students found that they were constantly surrounded by members of their extended family. This caused practical difficulties in terms of trying to find quiet places to study. Many found that they there was no choice and that they had to study on campus:

But I don't study much. ... A lot of it has to do with not having the quiet environment, like at Mum and Dad's it is a mad house, and they have kids. ... Home has never been ... if you just knew my family ... it has not been a good environment to do stuff.

It's a hectic schedule at home, so many people, and I just have to make it work.

We moved in with Mum in November because she needed help with the bills and I needed help with my daughter. ... Well, the family are there every day. ... Like, I don't know whether it is the Aboriginal or what it is ... but you always see your family every day. They are never gone. ... Even when I was younger I was always seeing aunties, cousins, all sorts. ... On a typical day I would see all of my sisters and all the kids, every day and weekends. ... Just every day. ... Go crazy. ... I have to work at uni.

Lived at college at first but didn't fit in so moved back to live with parents [in a town outside of Brisbane]. Commuted one and a half hours a day to uni four days a week. In later years parents assisted in renting a house for me in Brisbane, lived with brother. ... It was always bedlam.

Even when students recognise that their family commitments are impinging on their study they feel that they have little choice. Often their study seems trivial in comparison to the difficulties faced by family members who are asking for their assistance. One student went to some lengths to avoid her extended family by refusing to give out her telephone number:

I have contact with my extended family all the time. ... I feel really terrible but I still have not given my extended family my phone number, but they have still managed to track me down. ... Anything from baby sitting to going to the hospital when they are in labour ... to one of my cousins was in jail. ... He was really spinning out and tripping out ... and he was trying to contact me ... and what do I do? ... Do I prepare for tomorrow's seminar presentation or do I listen to my cousin and he is very suicidal and it is sort of a dilemma. ... Around June, exam time, I had my auntie ringing wanting my little cousin to stay with me because her father had sexually abused her.

A large proportion of the students interviewed had had to deal with the death of a family member during their first year of study. Many of the students interviewed found that their involvement in organising and supporting family around funeral times often took up weeks at a time. This type of lengthy involvement was also perceived to be non-negotiable by students and often meant missing classes and assessment:

In second semester I fell down because we had three deaths in the family. One was my cousin who was 25. He committed suicide. ... The responsibility was on me to get involved and help out, so I did and my studies fell down. Then my uncle died. He was like my surrogate father with the discipline ... and part of who I am today was because of him and it was really bad when he passed away and there was lots of work again.

During funeral times I had to look after my extended family. ... My cousin passed away and there was a week of organising in first year.

Brother died, he was 23 years old and he shot himself. ... This caused a big deal in our family. ... It was, like, stretching me to the limit and it did not mean anything to me and I felt really depressed ... and I could not cope with this and I hated my brother because I could not tell my mum these things because I was scared of the way she would react.

My cousin died of AIDS more recently and there was lots of organising and I've had so many things going on and I was really angry and I got into a lot of fights and had lots of racial experiences.

If I had a death in the family I am sure I would put off study for a while ... because I could not cope.

As a general rule the students in this study found the role of the family in Indigenous people's lives is extremely important. The place of family is inseparable from the students' own self-image. The students' comments demonstrate that there is a lack of flexibility and understanding both with respect to the law school culture and also in relation to the way in which students' families deal with the university experience.

LACK OF ROLE MODELS

Students overwhelmingly believed that role models helped them to maintain motivation for study. Many mentioned Noel Pearson as their role model; one student pointed out the pressure he must feel. Others thought for a while before suggesting that, although it would be ideal to have Indigenous lawyer role models, they couldn't think of any:

I would not have a role model except my grandparents ... old people in the community in terms of social services and just being the hub of the community ... but probably Noel Pearson. ... He is pretty cool.

It is important to have a role model. ... Noel Pearson is one. ... He seems like a good bloke. And Charlie Perkins.

I have met Noel Pearson. I was in a little shed in Bamiga and I was sitting there waiting to go and he looked up at me and recognised me. ... He is incredibly perceptive. ... The thing that annoys me is that Noel is educated and he knows the people and he goes back and camps with them and he is so in touch with them but he is one of the few that is there with his heart in it, and because of this he has so much pressure on him to get everything done. ... It is almost as if there is going to be no-one to give this over to, to spread the load. ... This put a lot of pressure on me, because I felt that I should help but that is where I started to think is this my sole responsibility and do I look after myself first because if I do this ... and I fall apart when it happens. ... It gets me angry.

The bridging course would have been the only time that we saw Indigenous lecturers. ... That was good.

I mean even things like having an Indigenous lecturer would help in the law school, so that there would be a person on staff that they know that

person is Aboriginal or Islander and you know they may be more sympathetic ... problems with racism ... personal or cultural then there is one person in the law school that they can go to.

As far as indigenous people with studying and working, it would be good. It would help.

I lived with my grandmother and I owe it to her that I have the values necessary.

Some students found inspiration and motivation through contacts with Anglo lawyers. One student pointed out that there was an element of cultural exchange in her relationship with her mentor:

I am working part time at an office in town and they have really gone all out to make me feel welcome there and there is one woman there who is going for her doctorate and I am sort of teaching her a lot about my culture and she is really understanding. I don't have my own computer at home and would have had to use the computers in the unit but she lets me come to her house and she has a computer there. ... The last couple of weeks I have been really depressed and she is graduating with her masters ... and she has a ceremony and she has asked me to come ... some sort of encouragement.

[A white male solicitor] is my mentor ... and we go to them and we spend time with them ... and I have met him. ... I think he is great. ... I think he is brilliant. He has told me about cases and I am like [gasps]. He is enough to inspire me.

The student quoted above found encouragement from a mentor she has been paired with through a program which was informally run in 1996 and 1997 by Griffith University and the Queensland Law Society. In this program students were paired with practicing solicitors and encouraged to develop their own individualised relationship. The value of the cultural exchange aspect of the program was stressed to the solicitors involved.

Students also recognise the pressure on them to be a role model for others:

I want to be a role model, ... although I am probably not a role model ... because I have stuffed up my life so far. ... I would feel good if I walked into a law lecture and saw a black woman teaching mainstream and Indigenous students about the Anglo-Australian legal system. ... I think that would just blow me away.

It would be really nice if I could ring up some Murri woman lawyer who is in a top firm in Brisbane and who had gone through what I had gone through. ... All the Murris I know are working in areas I don't want to go into. ... I sometimes think that if I stick with this maybe in 5 or 10 years time some Murri law student is going to hear of me and they can ring me up ... and ask me how I dealt with this ... and I can give them advice.

Role models are so important, ... because if you cannot see anyone who you can identify with in the profession then you are not actually going to picture yourself doing it. ... I'm hoping I can give some of the back up I did not get myself.

Some of these comments emphasise the sense students have of being part of a larger group and not just doing law for their own self interest but for their families and their people.

STANDARD OF EDUCATION WHEN STARTING LAW STUDIES

Students' Level of Education

Unfortunately, the level of achievement at secondary level provided little information in relation to why students in this study did not complete law studies. Given that so many factors can be important in influencing students' performance at university, high school academic achievement is not an absolute indicator and some studies have shown that this factor can be an extremely limited indicator.²² Many of the students interviewed in this study were high achievers at secondary level but this did not necessarily guarantee success at law studies. In the alternative, some of the students interviewed in this study had disrupted and incomplete secondary educations and yet managed to complete their law degree. Often success at secondary level meant for these students that extra burdens were placed upon them while they were studying, such as being the recipients of various rewards. Often the awards distracted them from study because of the associated commitments which required travel and speaking engagements:

I actually got a certificate for being the best Indigenous student in the Northern Territory, but it wasn't enough to get me through first year law.

I did very well up to grade 11 or grade 10 then pretty much average and I do not believe that this was to my full potential because I was hardly in school. The reasons for this was that I won a lot of awards in grade 11 and 12 which meant I travelled a lot.

22 Killen, "Differences between Students' and Lecturers' Perceptions of Factors Influencing Students' Academic Success at University" (1994) 13 *Higher Education, Research and Development* 199 at 200. See also Lewis, *The Performance at University of Equity Groups and Students Admitted Via Alternative Modes of Entry* (AGPS, Canberra 1994) p8.

I didn't understand why I was getting these awards and this attention because I did not think I was worth it. ... I was doing my day to day thing and they put a lot of pressure on me. ... My grades dropped for a while.

Uni is not what I expected. It is a lot different ... because to understand a lot of things you have to do the extra study. I didn't really need that in high school.

Other students complained of gaps in their education but this did not necessarily mean that they would withdraw from studies. Students said that they felt like they were behind when they got to law school and some stressed the importance of catch up programs such as pre-law programs.

You miss school because your parents are at home drinking and you have all the relatives over. ... That is the biggest thing: ... your family is over there every day and you don't want to miss something.

My brother died when he was 16 years old and I was 15 years old. ... He had brains. ... They don't really know why. ... He was my best friend and we used to go everywhere together. ... That affected me a lot. I started to fail at school. ... I didn't have a good grounding when I got to uni.

The content of the law course was scary. I found the girls who had gone to school in the city picked it up a lot easier.

But when the course starts it is pretty overwhelming and without a bridging course ... you are going in cold and, by the time you have realised what is happening to you, you are in the fourth week. The amount of work you have to do in law and you are behind ... and you are not sure what you should read and what you should skim through because you have no clue. ... It is horrifying. ... I am sure everyone goes through this, but black students are starting about 10 blocks behind everyone else and the majority of black students who come to university ... their education is not up to it and they need to build up.

The bridging course did help ... bridge the gap between high school and law.

Students commented on the different value attached to Anglo education by Indigenous people. They pointed out that the emphasis on education has to be pushed as far back as primary level if Indigenous students are to succeed in mainstream courses such as law:

Because getting into uni in a mainstream way is really hard. ... Mainstream students understand that they are at school and get the right

scores. They realise the importance of education, which is the thing that we have to start doing now which is keeping up ... not just saying that it is important to study but keep up the support and the monitoring for aboriginal kids at school. ... This is what is needed.

My results were not good. I played around at school. I did not realise the importance of education from the beginning.

Ultimately students perceived their educational experiences before law school as having some limited bearing on their success. Although the distinction between withdrawal because of academic failure and voluntary withdrawal is difficult to make,²³ for most of the Indigenous students who were interviewed and withdrew from study other issues such as family and alienation were more important than earlier academic failure.

Parents'/Family Education

For many of the students interviewed, they were the first in their families to study at university. Although some of the students had relations who have studied in other disciplines such as teaching and health, none of those interviewed could name any member of their extended family who was a law graduate. This contrasts sharply with the majority of the law school population where over 50% have at least one member of their extended family who is a law graduate.²⁴ This lack of insider knowledge may contribute to students' feelings of isolation and may also mean that there is the added burden of relatively higher family expectations.

I am kind of the first in my family to go to university and to get year 12. ... Mum and dad have always had high expectations of me. ... They always drilled into my head about school. I had to stay there and don't end up like your brothers and all that sort of stuff. Dad is a subcontractor roof tiler. He left school after grade 5. Mum did junior certificate.

None of my family went to uni. Dad went to year 7 and became a truck driver. Mum got through to early high school.

Maybe we let our problems overwhelm us. ... My family is a lot different from another Aboriginal family ... because it all goes on your parents and their experiences ... and my father did not have a really good life and he

23 Tinto, "Dropout from Higher Education: A Theoretical Synthesis of Recent Research" (1975) 45 *Review of Educational Research* 89. Similarly, de Groot noted in his study of lawyer competence that the competence of lawyers was not necessarily linked to grade point average. See de Groot, *Producing a Competent Lawyer: Alternatives Available* (Centre for Legal Education, Sydney 1995) p192.

24 Weisbrot, "Recent Statistical Trends in Australian Legal Education" (1991) 2 *Legal Ed Rev* 219 at 235.

did face a lot of discrimination. ... It was bad, the life that he had, but he was really determined to drum into our heads that you are not going to get nowhere if you ... like, you are going to be like me and your aunts ... unless you get an education ... and in the end that is what you need.

I thought about dropping out a few times but I knew I would never forgive myself. ... Family expectations are huge ... and I still get it now. They always raise this when we have a family function. ... It is really difficult at first because they would say things like your great grandmother always wanted a lawyer in the family. ... I am the only one of the kids who have a degree. ... I have a cousin who finished nursing last year but there are two of us out of the whole extended clan who have degrees and there is a lot of pressure ,but it's expressed in nice ways. ... There is a lot of pride ... and you learn to deal with it the older you get.

My father went to year 10, my mother to year 4. An aunty has an Arts degree and that's about it.

For some students the family's lack of support was a barrier to succeeding at law studies. There was a lack of understanding from extended family about what might be gained from a legal education:

I have one cousin who has an arts degree. ... My grandparents were not impressed that I wanted to go to uni because I think that an aunt started and got pregnant and dropped out or something like that.

When I was 14 all my friends and cousins ... I felt uncomfortable going back to my home town at that age because I was the only one who didn't have kids and so when I go back everyone asks me when am I going to do it. ... They know I am at university and some of them say a black boy is not good enough for me. ... They say I am trying to big note myself and trying to act white. ... That makes it hard. The reason I am studying at university is that I can do things for not only my people but for Indigenous people around the world ... and I want to work for Indigenous people and for an Aunt to say that you are a white man or an air conditioned black ... it makes me think sometimes "Am I a hypocrite?" It can be a struggle to go on.

You won't get an Aboriginal person saying ... "I am going to be a lawyer" ... because they would be laughed at by their family.

Possibly this lack of family support results from a fear that the students will be indoctrinated with "mainstream" culture and ultimately lost to their community and family.

In her study of Aboriginal tertiary study, Bin-Sallick found that there was a real concern amongst some sectors of the Indigenous community that students would be “assimilated” from exposure to such education.²⁵

POVERTY WHILE STUDYING

Most of the respondents received Abstudy while studying, often supplementing their income with part time work. Four had been awarded cadetships which required them to work at government agencies during holiday periods. Two of the students were supported by their parents, supplementing this support with part time work. Most of those interviewed complained of a struggle with finances while studying.

The fact that I have to budget to buy anything ... I bought a t-shirt the other week which cost \$10 and I stressed all week because it is not in my budget. ... It gets really tight like that.

It's hard work. I get Abstudy. ... I watch my brother's kids for a week at a time, four of them at a time. ... I get paid. ... I clean banks at night and Australia Post during the day and I baby sit kids, ... not my brother's kids. ... These are different kids.

A lack of money is particularly problematic while studying law as the costs of texts required for study can be extremely high. This student's comment illustrates the point:

So one lecturer is telling me that I need \$260 worth of legislation and I can not take it into the exam. I say “How am I going to afford that? It's ridiculous”. He says “Ask someone, your parents, your family. Surely you have some friends?” So I just sat there and said “Excuse me [lecturer] can you lend me \$260 to buy some legislation?”

In other studies about why students withdraw from tertiary studies, lack of finances has been considered the most important reason for withdrawal.²⁶ For this group of Indigenous students, lack of finances were not perceived to be a major reason to withdraw. Financial considerations were inextricably linked to their cultural isolation at law school. Indigenous students are more likely to be from low socio-economic backgrounds than their non-

25 Bin-Sallick, *Aboriginal Tertiary Education in Australia: How Well is it Serving the Needs of Aborigines?* p140. See also Yunupingu et al, *National Review of Education for Aboriginal and Torres Strait Islander Peoples* (Department of Employment, Education and Training, Canberra 1995) p15 where this fear is also expressed.

26 See Deloria, “Legal Education and Native People” (1974) 38 *Sask L Rev* 22 at 23; and Hall & Harper, “Student Discontinuance: University Related or Personal” (1981) 8 *Australian Educational Researcher* 22 at 23.

indigenous counterparts when they attend law school.²⁷ This factor is inextricably linked to race and clearly needs to be taken into account when student support programs are being set up.

STUDENTS' SUGGESTIONS FOR IMPROVEMENT

Throughout their interviews students made many suggestions about what law schools should not be doing if they want to retain Indigenous students. Some of these suggestions are contained in the students comments extracted above. Some of their positive suggestions about what law schools should do are included below.

If You Had to Teach Law to Aboriginal Students

Students were asked during the interview how they would teach the law they had been learning at law school to Indigenous people. Some of the answers were innovative and wide ranging.

As far as vocabulary, it would be different because it would be just plain English.

My aunt completed a degree last year on tropical health, which was actually Indigenous primary health, and the structure of their course was problem based learning. ... From what I have heard it seems to be the best way for aboriginal people to learn

I would teach law in a much more relaxed manner ... and in a way that everyone knows everyone as a group. ... That is really important.

I would make sure there was less reading and more open discussion.

I would highlight particular actors in cases. ... I always wanted to go deeper ... to deal with the legal point and then move on was never enough ... and a little bit slower.

Some students suggested that flexibility in both delivery of material and assessment would improve chances of success:

How to change the law school to suit Indigenous students ... external mode ... more flexibility as far as tutorial times, part time would be good. ... Murri time is there in everyone of us. ... This should be definitely recognised and it has not been so far. ... If they have something else on

²⁷ See Australian Bureau of Statistics, *National Aboriginal and Islander Survey: Detailed Findings* (AGPS, Canberra 1994) p33.

this week, then maybe they could go another day at the end of the week or something ... or maybe there should be a workshop or something extra.

The above comment echoes the conclusion of other studies in relation to Indigenous education.²⁸ It is clear that it is inequitable for law schools to fail to offer part time study options to Indigenous students who are likely to have a greater number of responsibilities and financial difficulties.

Students also emphasised the importance of making the content of the course material seem relevant to them. This may require discussion with students who have completed courses about how this may be accomplished:

I try and tell myself all these lies. ... I tell myself that law is about the study of people and peoples' lives and that gets me into it and I look at it that way instead of silly old English people wearing wigs, and the first year subject has been helpful because it touched on things like discrimination and human rights.

The first subject was contract. It was so incredibly boring and it is the first thing you have to do and there is all this other stuff that you have to get used to and I was thinking I don't really care. You lose it from the beginning if you don't care.

You have to make it relevant because a lot of mature age students are doing it ... and bigger issues ... lots of young students are looking for a career so make it relevant to them.

Another student echoed the previously extracted comments about role models, pointing out that it is important to see Indigenous people teaching at law school:

I have noticed that there are a lot of Aboriginal solicitors now ... and I would really like to see if there could be more guest lecturing going on.

Providing Appropriate Tutors

Students found tutors important and many had accessed the Aboriginal Assistance Tutorial Scheme (ATAS). The problem many students faced was that tutors were not available in the first few weeks of study when students were feeling most vulnerable:

If I had a tutor there straight away to explain, it may have been different.

28 Christenson & Lilley, *The Road Forward?: Alternative Assessment for Aboriginal and Torres Strait Islander Students at Tertiary Level* (Evaluations and Investigations Program, Department of Employment, Education, Training and Youth Affairs, Canberra 1997) p30.

It was also considered important that the student have a good rapport with their tutor. One student complained that a tutor organised by the faculty was

racist in her own way. ... She was patronising and paternalistic and we found it really hard to relate to her ... culturally and there were instances where what she did was totally inappropriate. ... She hounded people. ... No-one really trusted her. ... She did not earn the trust.

One student suggested that for mainstream tutorials the Indigenous students in any one year should be kept together:

It would have given us more confidence. ... You have your mates around you and the white kids would not have tried so much. ... You are more of a force to be reckoned with in the tutes.

Most often the tutors provided to students by ATAS were not Indigenous, and students would have preferred to have Indigenous tutors. Unfortunately most teachers employed by law schools are not Indigenous people. This possibly reflects the perceived requirement that such people have a law degree. This requirement excludes a range of others who would be suitably qualified to give support to students, especially in the first year of study:

We need an aboriginal law person to help aboriginal students.

It would be nice to have an Indigenous person in the job that the Indigenous support person in the law school was doing.

It would be great to have an Indigenous person run a pre-law program.

On Numbers Enrolled

Most students agreed that the more Indigenous students there were enrolled in law while they were studying, the more support they felt. This view is reflected by the experiences at the University of New South Wales and the University of Saskatchewan.²⁹ Where students had access to larger groups of Indigenous students they were able to rely on each other for assistance and motivation:

I don't think universities can stop students withdrawing, but other universities have bigger groups of students. There may be four or five of

²⁹ See Purich, "Affirmative Action in Canadian Law Schools: The Native Student in Law School" (1986) 51 *Sask L Rev* 79 at 82; and Penfold, *Support for Indigenous Students in the Faculty of Law, University of New South Wales, 1989-1995* (Unpublished, UNSW 1996) p8, copy available from the author.

them in a year who have known each other from the start. They stick with each other and form note pools.

There were five or six of us in the pre-law program and we stayed together and helped each other along.

The question shouldn't be why people don't complete law, more why Aboriginal people don't study law. If more Aboriginal people study law, more will complete it.

The need to attract Indigenous students to law school needs to be balanced with a careful selection process which takes account of students' academic abilities:

One thing about where I went to uni is that they are very selective about the Murri students that they let have special consideration ... so that lots of the people they let in actually finish. ... It is really bad to let students into a course who don't have the capacity. ... Because of the personal circumstances that they have grown up with they have not got the skills. ... If you allow them into a course and they fail it it's such a huge blow to their self esteem that they would never do tertiary study again. It is wrong to let a whole heap of students through in the hope that someone will get through.

Selectors for alternative entry programs may have a difficult task. They need to balance the students' own abilities with the level of support available from the university. Many of the Indigenous students who enter by alternative entry do not have the level of support, or of skills or education, that other students will have available. This does not necessarily mean that such students should not gain entry, rather it means that resources need to be devoted to them after they are admitted so their chance of success is reasonable.³⁰

Teaching Indigenous Issues

Many students commented that they felt extremely uncomfortable when Indigenous issues were discussed in class. For example:

Whenever Indigenous issues are discussed you feel a bit hesitant and wait and see what the response is from the rest of the class before you say anything or have a problem.

There was a panel of Aboriginal people talking in first year. ... It was too confrontational. Most of them [non-Indigenous students] had lived

30 Lewis, *The Performance at University of Equity Groups and Students Admitted Via Alternative Modes of Entry* pp50-51.

sheltered lives. Basically Indigenous issues were dealt with badly ... painting a nice picture of Aboriginal issues. ... It was not very hard hitting.

Students were divided about who and how Indigenous issues should be taught at law school.

I have heard some students say you should not have a white speaker. ... I have heard a lot of Aboriginal people who have said you should have Indigenous people talk about Indigenous issues. ... But for myself, whoever has got the knowledge ... everyone talks about equal opportunity ... but if there is a white person who knows because they learned it from someone ... but I could get up there and do it because I'm dark ... but I don't have the knowledge to do it ... and X who is white would know a lot more than me ... maybe not traditional things but enough to do a lecture.

I waited until the Indigenous thing came up [in first year lectures] and I got someone from the [Indigenous education] unit to come up and listen and neither of us was impressed that white people were talking about Indigenous this and that. ... I think it is highly inappropriate ... when there are Indigenous academics around.

First year was pretty bold. ... It was good to put the law into perspective and explain the difficulties with accessing the law. The questions fired up and the white guys would have gone on missing the point if the issues hadn't been raised and it opened up a lot of peoples' eyes.

Indigenous culture provides different members with different knowledge, thus not all Indigenous people will be qualified to talk about all issues. One student commented that the sensitive approach would be a consultative one:

If I was teaching law in an Indigenous community ... the thing I would find important to do is to talk to people in the community, whether it be elders or counsellors or something, because they are the people that know the best ... what the community is about ... so I just can not assume that I can say that I am the person to teach this and I am the person who knows what the law is about. ... That is not how it works and it has to be taught in a way which they understand and it is going to benefit them the most and it is relevant to them.

CONCLUSION

It is important to note that most students interviewed had difficulty with the first year of study. They considered this the transition year. All of the students interviewed who had

withdrawn did so before commencing second year. It would therefore seem that the emphasis of support should be on first year students. This is supported by other studies.³¹

For students, the major factors affecting success at law school were cultural alienation, family responsibilities and poverty. Other factors, such as the students' own educational background or the educational background of their extended family, were perceived to be less relevant.

Innovation is threatening,³² and in law schools where conservatism tends to prevail it may be particularly threatening. It would seem that law schools need to change radically if they are to properly support and foster Indigenous law students. A starting point would seem to be cultural awareness training for law school staff, but there also needs to be a focus on educating non-Indigenous students about these issues. Most Indigenous students find law schools to be alienating and racist places, and attitudes need to be dramatically reshaped to deal with these concerns.

I end this paper on a positive note with several comments from some of the students interviewed which illustrate their tenacity and determination:

On my good days I know that this is just a stepping stone to where I want to be and I won't be a university student for the rest of my life and I really want to be working in the United Nations for human rights. It is better to make the sacrifices now than when you are married with kids.

I never thought of dropping out. ... I thought screw these bastards. ... I am going to finish and get through this. ... I hate it and I hate it with every part of my body, but I am going to finish.

I have never really considered withdrawing because I remember how nervous I was waiting to see if I got into it ... and I wanted it more than anything in the world basically at that stage. ... So I could not drop out; I want it too much.

Going from my grandmother who could not go to school because you were black ... or get on the bus and she had a lot of influence in my life. ... You want to fight the system and get an education or go along with the payments ... go along and cry or get over it.

31 Spencer, "First Year Students Face Unique Problems" (1995) 5 *Campus Review: Indigenous Education Special* 12; Baumgart et al, *Meeting the Needs of Indigenous Communities: Evaluation of Batchelor College* (AGPS, Canberra 1995) p133. It seems that the first year is the transition year for most mainstream students as well: see Latham, *The Journey to University: A Study of the First Year Experience, Interim Report* (RMIT, Melbourne 1998).

32 Troyna, *Racism and Education* (Open University Press, Buckingham 1993) p91.