Bond University

Legal Education Review

Volume 34 Issue 1

2024

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DEVELOPING INDIGENOUS CULTURAL SAFETY IN LAW: CLINICAL LEGAL EDUCATION AS A METHOD FOR GETTING IT DONE

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Jingeri jimbelung

This expression is from the Yugambeh language, meaning 'Hello Friends'. We commence this article by recognising and respecting the traditional custodians and the deep knowledge held by Aboriginal and Torres Strait Islander Peoples.[1] We record our respect to all Traditional Owners of the lands where Australian universities and community legal centres now exist and honour the commitment of Aboriginal and Torres Strait Islander Peoples to the transmission of knowledge and the enormous contribution they make to higher education. We also record, at the outset, the collaborative nature of this article and the clinic initiative. We note that all academics involved have undertaken specific cultural safety and research training about the Australian Institute of Aboriginal and Torres Strait Islander Studies Guidelines for Ethical Research in Australian Indigenous Studies.[2]

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1 We acknowledge the distinct cultural identity of Aboriginal and Torres Strait Islander Peoples. By design, we have chosen to use the terms 'Aboriginal and Torres Strait Islander Peoples' and 'First Nations'. The term 'Indigenous' is used in reference to any original source materials. All three terms used carry our deepest respect.

2 Australian Institute of Aboriginal and Torres Strait Islander Studies, *Guidelines for Ethical Research in Australian Indigenous Studies* (2012) available online: https://aiatsis.gov.au/sites/default/files/2020-09/gerais.pdf.

I INTRODUCTION

This article examines the utility of bringing an Indigenous cultural safety lens to clinical legal education. It describes a legal clinic in Logan, Queensland, variously called the *Culturally Safe Criminal Law Practice* and the *Cultural Immersion Clinic*.[3] The clinic has run for five years and is a three-way collaboration between The University of Queensland (UQ) School of Law (through its Pro Bono Centre), Bond University Faculty of Law and YFS Legal, a community legal centre located in Woodridge in the city of Logan, on the southern outskirts of Brisbane, roughly equidistant between UQ and Bond University campuses.

This article is inspired by the call of Australian academics Marcelle Burns (a Gomeroi-Kamilaroi woman) and Jennifer Nielsen to counter the silence on race and whiteness in legal education.[4] While the clinic has been delivered on a small scale in terms of the number of participating students, in this article we analyse its role, impact, and potential to contribute towards countering this silence. The authors argue that clinical legal education can make an important pedagogical contribution to the development of Indigenous cultural safety within the study of law. In particular, the deployment of yarning as both a tool and a process for engaging cultural humility and understanding through clinical legal education is a particularly effective way to bring about transformative learning.

Part Two of this article describes the establishment of the clinic and clinic activities. Part Three draws on a range of relevant theoretical foundations to analyse the strengths and challenges of the clinic's operation. Importantly, as the clinic has been founded through collaborative practice, reflections from clinic presenters and partners, and supervisor insights about students' learning, are also included.[5] Here, we focus on the process and practice of yarning as a particularly effective vehicle for imparting cultural knowledge and delivering cultural safety learning outcomes. Part Four is concerned with evaluation; it considers the relative strengths and limitations facing the clinic, presents some observations from clinic supervisors and presenters and makes suggestions for other university law schools that might also wish to establish a similar clinical legal education course. The article concludes by situating the clinic as part of a wider discussion that share initiatives to expand the embedding of First Nations' perspectives and learnings into all aspects of legal education.

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[3] The same clinic is officially titled the *Culturally Safe Criminal Law Practice* by The University of Queensland and the *Cultural Immersion Clinic* by Bond University.

[4] 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* 375, 403 and related scholarship by Irene Watson and Marcelle Burns 'Indigenous Knowledges: A Strategy for First Nations Peoples Engagement in Higher Education' in Sally Varnham, Patty Kamvounias and Joan Squelch (eds), *Higher Education and the Law* (Federation Press, 2015) Chapter 4, 41.

[5] Permission in writing was obtained from clinic presenters and partners by way of email exchanges with the clinic supervisor, and proud First Nations woman, Candice Hughes.

II PLANTING THE SEED: FOUNDATIONAL IDEAS FOR THE CLINIC

The idea for establishing the clinic initially grew out of an identified deficit in clinic offerings for law students at UQ. Within the School of Law, the clinical legal education program is run through its Pro Bono Centre. At the time, the Centre's Strategic Plan identified a range of thematic priorities including increasing its work with First Nations Australians, and part of this focus included enhancing the readiness of law graduates to work with Aboriginal and Torres Strait Islander clients and communities. Similarly, at Bond University, one of its declared *Graduate Attributes* is for students to become 'global citizens', which explicitly mandates that Bond Graduates 'embrace inclusiveness whilst valuing the rich diversity of others from different backgrounds within changing environments'.[6] Bond claims its graduates are able to 'demonstrate appreciation and respect for the unique historic, social, cultural and ethical values and traditions of populations such as the first peoples of Australia and other groups throughout the world (cultural capability)'.[7]

It is worth noting that both universities (UQ and Bond) take the responsibility of Indigenous engagement seriously, demonstrated, in part, by commitments contained in respective university strategies,[8] which are situated within a high level, whole-of-sector commitment to advancing values of cultural safety for Indigenous students and staff, and true partnerships between universities and Aboriginal and Torres Strait Islander communities.[9] However, at the Law School level, whilst both UQ and Bond had aimed to address cultural diversity and work with First Nations Peoples, the gap between written aspiration and reality was obvious with a lack of dedicated course offerings for law students to directly engage with the theory and practice of culturally safe lawyering and legal practice.

It had also been observed by course coordinators at both institutions that many clinical legal education offerings undertaken to benefit diverse client and community groups involved limited engagement with First Nations communities, and supervisors were most often white academics or lawyers. Under this model, it was observed that some students, whilst diligently executing their practical tasks, unfortunately exhibited a paternalistic attitude towards clients, which was rarely

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[6] Bond University, G*raduate Attributes* (Web Page) <https://bond.edu.au/our-university/bond-difference/graduate-attributes>.

[7] Ibid.

[8] Bond University, *Innovate Reconciliation Action Plan* (Web Page) <https://bond.edu.au/sites/default/files/2023-11/Bond%20University%20Innovate%202023-2025_FINAL.pdf>; The University of Queensland, *Reconciliation at UQ* (Web Page) <https://about.uq.edu.au/reconciliation>.

[9] Universities Australia, *Indigenous Strategy 2022 – 2025*, (Web Page) <https://www.universitiesaustralia.edu.au/publication/indigenous-strategy-2022-25/>. See also related annual reports issued on the implementation of the Indigenous Strategy.

adequately challenged.[10] It was thought that this attitude risked generating a 'white saviour'[11] mentality rather than operating from a First Nations led, strength-based approach. Clinical students who were able to form insight into the impact of colonial, racist and patriarchal influences on clients and communities nonetheless struggled to know how to respond other than in a charitable modality.[12]

A decision was made to seek an opportunity for UQ to partner with a legal service that assists Aboriginal and Torres Strait Islander clients (whether exclusively or as part of a diverse client cohort) and which offers students the opportunity to work under the supervision of a First Nations lawyer. A second decision was made to engage a culturally safe approach to the partnership itself to give maximum autonomy to the First Nations lawyer to design and run the clinic while providing adequate financial support and other help where requested. Because of the high student interest in criminal law experience, a criminal law practice was considered ideal but not essential. The clinic was open to Indigenous and non-Indigenous students, and designed to be culturally safe for all students. At the time of writing, only non-Indigenous students had applied for and, therefore, been selected to participate in the clinic.

The idea of establishing a legal clinic in partnership with the UQ School of Law was pitched to YFS Legal, a local community legal centre based in Logan city, via their lawyer Candice Hughes. A Kamilaroi lawyer with a reputation for supporting Indigenous and non-Indigenous young lawyers and students, Candice had previously supervised UQ students in a different clinic context and was a frequent guest at the UQ School of Law. Candice had earlier expressed an interest in developing a deeper relationship with the School, and there had been some informal conversations about how a clinic such as the *Culturally Safe Criminal Law Practice* might operate. YFS Legal was well equipped with additional highly skilled staff experienced in student supervision and clinic coordination. Candice, YFS Legal, and a significant number of YFS Legal staff also had an established relationship with the Bond University Faculty of Law. Therefore, a collective decision was taken by all parties to extend the collaborative aspects of the clinic to include law students from Bond. The collegiate support that could be expected to develop amongst students from different law schools in the clinic was another advantage of expansion.

From the outset, a key learning experience for the students was working under the direct supervision of a First Nations lawyer. The

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10 Monica Taylor and Tamara Walsh, 'Perceptions of Competence and Well-Being in Clinical Legal Education' (2018) 3(1) *Australian Journal of Clinical Education* 1,13 where the authors' study found that some students demonstrate a cavalier attitude and low emotional intelligence when faced with client disadvantage.

11 The phrase originates from the widely known poem by British novelist and poet Rudyard Kipling, 'The White Man's Burden' (1899). For a critique of the white saviour industrial complex, see Gary Walsh, 'Challenging the Hero Narrative: Moving Towards Reparational Citizenship Education' (2020) 10(34) *Societies* 1, 7.

12 Taylor and Walsh (n 10) 17. See also Judith L Maute, 'Changing Conceptions of Lawyers Pro-Bono Responsibilities: From Chance Noblesse Oblige to Stated Expectations' (2002) 77(1) *Tulane Law Review* 91, 95.

clinic was intended to challenge the idea of Aboriginal and Torres Strait Islander people as passive recipients of legal services designed and delivered by others, and to instead showcase excellence in First Nations legal practice and leadership. It was hoped that students would learn that there are known and readily accessible community-led solutions to many legal and social problems and thus become able to challenge their own and others' perceptions about the real barriers to justice for Aboriginal and Torres Strait Islander Peoples. A further key learning outcome would be the development of tangible skills in working collaboratively with Aboriginal and Torres Strait Islander clients, including proficiencies in written and oral communication, building trust and properly articulating clients' stories for legal and court purposes. Participation in the clinic and achievement of these learning outcomes would equip these students, as future lawyers, to act in a manner that contributes to change in broader society.

A *What is Cultural Safety and What Resources Were Available?*

In recent years, significant steps have been made towards the development of Indigenous cultural safety, previously termed cultural competency, within higher education. An appropriate starting point for a definition of Indigenous cultural competency is that developed by Universities Australia:

> Student and staff knowledge and understanding of Indigenous Australian cultures, histories and contemporary realities and awareness of Indigenous protocols, combined with the proficiency to engage and work effectively in Indigenous contexts congruent to the expectations of Indigenous Australian peoples. Cultural competence includes the ability to critically reflect on ones' own culture and professional paradigms in order to understand its cultural limitations and effect positive change.[13]

The policies of Universities Australia were initially developed and published in 2011 for the entire higher education sector, thus they were not designed to be specifically law-focussed.[14] Building on this work, the Australian government issued terms of reference for a wide review into higher education access and outcomes for Aboriginal and Torres Strait Islander People.[15] The final report, published in July 2012, advanced 35 recommendations designed to transform the higher education sector into performing 'a leading role in building capacity within Aboriginal and Torres Strait Islander communities, and making

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13 Universities Australia, *National Best Practice Framework for Indigenous Cultural Competency in Australian Universities* (2011); Universities Australia, *Indigenous Strategy 2022 – 2025* (n 9).

14 For a detailed recount of cultural competency in the Australian higher education sector see Jack Frawley, Gabrielle Russell and Juanita Sherwood (eds), *Cultural Competence and the Higher Education Sector* (Springer, 2020) in particular Chapter 16, Bronwyn Fredericks and Debbie Bargallie, 'An Indigenous Australian Cultural Competence Course: Talking Culture, Race and Power' 295-308.

15 *Review into Higher Education Access and Outcomes for Aboriginal and Torres Strait Islander People*, Final Report, July 2012, Terms of Reference 265. Often referred to as the 'Behrendt Report' reflecting the contribution of the Chair of the Expert Panel, Professor Larissa Behrendt.

a meaningful contribution to closing the gap between Indigenous and non-Indigenous Australians'.[16] Palkyu law academic Ambelin Kwaymullina notes that although the term cultural competence can be fraught, it is a journey not a destination, one that requires understanding of local peoples and contexts and an ability to articulate and critically engage with one's personal and cultural standpoint.[17]

Academics have written extensively about concerns around incorporating Indigenous cultural safety within higher education, including recognising that some practices may not assist with decolonisation but will instead fortify western methods of knowledge production and epistemic privilege.[18] Anti-racist discourse critiquing legal education has grown in prominence internationally, most notably in the United States, due in part to the Black Lives Matter movement.[19] This flourishing literature demonstrates the importance of anti-racist and decolonial framing of clinical legal education and the university mission more broadly. The application of anti-racist and decolonial framing is essential for those aiming to employ the National Best Practice Framework of Universities Australia and the subsequent Indigenous Strategy 2022-25 into higher education.[20]

In Australia, Gomeroi-Kamilaroi First Nations scholar Marcelle Burns was at the forefront of early calls for legal education to increase its capacity to produce culturally competent legal professionals.[21] Burns was the driving force on the Indigenous Cultural Competency for Legal Academics Program (ICCLAP).[22] Funded by the federal

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[16] Ibid 3.

[17] Ambelin Kwaymullina, 'Teaching for the 21st Century: Indigenising the Law Curriculum at UWA' (2019) 29(1) *Legal Education Review* 1, 2.

[18] See, eg, Neil Harrison and Ivan Clarke, 'Decolonising Curriculum Practice: Developing the Indigenous Cultural Capability of University Graduates' (2022) 83(1) *Higher Education* 183, 194–5; Natalie Clarke, 'Shock and Awe: Trauma as the New Colonial Frontier' (2016) 5(1) *Humanities* 14; Rhonda M. Shaw et al, 'Ethics and Positionality in Qualitative Research with Vulnerable and Marginal Groups' (2020) 20(3) *Qualitative Research* 277; Cathie Burgess et al, 'A Systematic Review of Pedagogies that Support, Engage and Improve the Educational Outcomes of Aboriginal Students' (2019) 46(2) *Australian Educational Researcher* 297; Bageli Chilisa et al, 'Decolonising and Indigenising Evaluation Practice in Africa: Toward African Relational Evaluation Approaches' (2015) 30(3) *Canadian Journal of Program Evaluation* 1.

[19] See, eg, Norrinda Brown Hayat, 'Freedom Pedagogy: Toward Teaching Antiracist Clinics' (2021) 28 *Clinical Law Review* 149; Patricia Barkaskas and Sarah Buhler, 'Beyond Reconciliation: Decolonizing Clinical Legal Education' (2017) 26(1) *Journal of Law and Social Policy* 1; Pooja Parmar, 'Reconciliation and Ethical Lawyering: Some Thoughts on Cultural Competence' (2019) 97(3) *Canadian Bar Review* 426; Cynthia Pay, 'Teaching Cultural Competency in Legal Clinics' (2014) 23(1) *Journal of Law and Social Policy* 188.

[20] Universities Australia, *National Best Practice Framework* (n 13); Universities Australia, *Indigenous Strategy 2022 – 2025* (n 9).

[21] Marcelle Burns, 'Towards Growing Indigenous Culturally Competent Legal Professionals in Australia' (2013) 12(1) *International Education Journal: Comparative Perspectives* 226. More recently, Burns was the Guest Editor for a special edition of the Legal Education Review: (2018) 28(2) *Legal Education Review* on Indigenous Cultural Competency in Law.

[22] Marcelle Burns, Anita Lee Hong and Asmi Wood, *Indigenous Cultural Competency for Legal Academics Program (ICCLAP) Final Report*, (2019 Australian Government Department of Education and Training) *('ICCLAP Final Report').*

Department of Education and Training, ICCLAP was a cross-institutional project involving five universities working together to:

> …increase the inclusion of Indigenous cultural competency in legal education. This will improve Aboriginal and Torres Strait Islander student outcomes in law as well as developing Indigenous cultural competency in all students. This will lead to better legal service delivery for Indigenous communities in the long term.[23]

In 2019, the ICCLAP Final Report set down a pathway for action. ICCLAP described cultural competency as being primarily about 'fostering meaningful cross-cultural dialogue, with the *process being more important than the nomenclature'* (emphasis added).[24] It is notable that ICCLAP chose to adopt Universities Australia's definition of Indigenous cultural competency. ICCLAP articulated that one of the guiding principles for embedding Indigenous cultural competency within legal education is to enable:

> Work-integrated learning with Indigenous communities and organisations, providing transformative learning experiences that are effective in changing attitudes. Such programs must be done ethically, ensure cultural safety and be adequately supported so as not to create a burden on communities or organisations. Indigenous and non-Indigenous 'peer-to-peer relationships' are effective at building cultural understanding and promoting two-way learning.[25]

The clinic that is the focus of this article is a prime example of work-integrated learning in an organisation with a First Nations focus, with law students working under the direct and close supervision of a First Nations lawyer. It is, therefore, fully consistent with ICCLAP's goal of providing transformative learning experiences.[26]

A key aim of the ICCLAP Project was that the inclusion of Indigenous cultural competency in legal education would 'produce more culturally competent and effective law graduates and future lawyers who are better able to interact with Indigenous clients, witnesses, and other lawyers; and who are more effective in representing Indigenous traditional owners, corporates, representative bodies, businesses and non-profits, and providing legal services to Indigenous communities'.[27] The deliberate design features of this clinic, with students' broad exposure to Aboriginal and Torres Strait Islander organisations, Elders, and professionals, seeks to achieve the same aim as that identified by ICCLAP.

The clinic employs cultural safety in a manner reflective of ICCLAP's considerations. Given the limitations of a knowledge-based

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[23] Ibid 22.

[24] Ibid.

[25] Ibid 20.

[26] For a different example see Annette Gainsford, Alison Gerrard, and Kim Bailey, '"Yindyamarra in Action": Indigenous Cultural Competence as Core Business within Legal Education and Law Schools' in Barbara Hill, Jillene Harris and Ruth Bacchus (eds), *Teaching Aboriginal Cultural Competence: Authentic Approaches* (Springer, 2020) Chapter 6, 61.

[27] ICCLAP *Final Report* (n 22) 36.

approach, both cultural competence and cultural safety emphasise process over knowledge.[28] Clinic students are encouraged to focus on the journey, not the destination. Through reflective practice (both as a form of assessment and a way of interacting with fellow students and supervisors), students are encouraged to bring consciousness to their biases and to practise cultural humility.[29] Incorporating the voices of a variety of First Nations peoples is integral to the clinic's structure and promotes perspective-taking and cultural empathy. Through these measures, students are encouraged to be responsive to cultural diversity, enabling them to work with people from other cultures.[30] The combination of narrative, to bring people together, and reflexivity, 'understanding how one's life is already the life of another,' provides 'fundamental commonality', which would enable people from different cultures to work together.[31]

The growing, widespread acceptance of the need for cultural awareness and safety was further articulated by the Council of Australian Law Deans (CALD) in a public statement published on 3 December 2020, which formally recognised the Australian Law's systemic discrimination and structural bias against First Nations Peoples.[32] Crucially, the statement provides an honest identification of systemic discrimination that permeates the Australian legal system with respect to First Nations Peoples and 'the part that legal education has played in supporting, either tacitly or openly, the law's systemic discrimination and structural bias against First Nations Peoples'.[33] Looking to the future of legal education, CALD urges all Australian law schools to work in partnership with First Nations Peoples to give priority to the creation of culturally competent and culturally safe courses and programs: 'CALD affirms the positive contribution Australian law schools can, should and will make, in full partnership with First Nations Peoples, in exposing, critiquing and remedying all forms of institutionalised injustice'.[34] Furthermore, the Australian Law School Standards, developed by CALD, were updated in July 2020 to

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[28] See, eg, Toni Wain et al, 'Creating Cultural Empathy and Challenging Attitudes through Indigenous Narratives' 2013 *Australian Government for Learning and Teaching* 10. Emphasis on a knowledge-based approach has been criticised for its numerous shortcomings, including: implying that culture is uniform and unchanging; assuming that cultural competency is attainable, thereby failing to recognise the issue as greater than the individual; applying 'broad population-level data or knowledge-based information' to individual interactions that results in stereotyping; obfuscating 'structural power imbalances' by emphasising cultural distinctions; and 'disempowering' Indigenous people by perceiving disadvantage as a characteristic.

[29] Ibid. See also Evan Hamman, 'Culture, Humility and the Law: Towards a More Transformative Teaching Framework' (2017) 42(2) *Alternative Law Journal* 156.

[30] See, eg, Harrison and Clarke (n 18).

[31] Ibid 195.

[32] Council of Australian Law Deans, '*Statement on Australian Law's Systemic Discrimination and Structural Bias Against First Nations Peoples'* (Web Page) 3 December 2020 <https://cald.asn.au/cald-statement-on-australian-laws-systemic-discrimination-and-structural-bias-against-first-nations-peoples/>. See also CALD *'Statement on Racism and Law Schools'* (Web Page), 31 January 2024 <https://cald.asn.au/first-nations-peoples/>.

[33] Ibid 2.

[34] Ibid 17.

include new areas of knowledge required for law degrees. The standards now include a statement that the law curriculum will 'develop knowledge and understanding of Aboriginal and Torres Strait Islander perspectives on and the intersections with the law'.[35]

B *Clinic Design and Activities*

The *Culturally Safe Criminal Law Practice / Cultural Immersion Clinic* followed a typical 13-week academic semester, with students attending on-site at YFS Legal one day per week for the duration. UQ and Bond students have different academic calendars; however, when their semesters overlap, the students worked together. Throughout the semester, students worked under the close supervision of a First Nations lawyer. This deliberate design meant that non-Indigenous law students observed Indigenous excellence by being exposed to First Nations lawyers in practice who are recognised experts in their field.[36]

Client work at YFS Legal is predominantly in the area of youth justice. Clients are a mix of Indigenous and non-Indigenous children (mostly between the ages of 14 to 17 years) who have had criminal charges brought against them. Many clients are precariously housed, experiencing either primary homelessness (sleeping rough or in squats) or secondary homelessness (couch surfing and drifting between residences). Most clients are in, or have been through, the child protection system. Some have drug and/or alcohol dependence issues and diagnosed and undiagnosed mental health challenges and neurological disorders. Few clients have experienced secure attachments or stable, safe, loving relationships. In this context, it is essential to be aware of the caution issued by ICCLAP project and Indigenous legal scholars against promoting an Indigenous deficit perspective and using language that reinforces stereotypes grounded in white supremacy and privilege.[37] Mindful of this warning, the clinic was also designed to empower non-Indigenous law students to value Indigenous cultures, as this is necessary to transform the thinking and the framing of Aboriginal and Torres Strait Islander people as a problem or special needs group. This is also consistent with ICCLAP's

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[35] *Australian Law School Standards with Guidance Notes*, 2.3.3 Curriculum Content, 4, adopted as of 30 July 2020, available online: <https://cald.asn.au/wp-content/uploads/2020/07/Australian-Law-School-Standards-v1.3-30-Jul-2020.pdf>. See also 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.

[36] Clinic supervisor Candice won the 2019 Indigenous Lawyer of the Year award in the second year of the clinic's operation. Candice was also the project lead on YFS Legal's First Nations Legal Needs Analysis Project: YFS Legal, '*Survey Report: First Nations Legal Needs Analysis Community Legal Education Project*' (Web Page) September 2020 <https://www.yfs.org.au/wp-content/uploads/2022/11/First-Nations-Legal-Needs-Analysis-Report-YFS-Legal-September-2020_FINAL.pdf >.

[37] Kwaymullina (n 17) 8. See also M Boyle-Baise, 'Community Service Learning for Multicultural Education: An Exploratory Study with Preservice Teachers' (1998) 31(2) *Equity and Excellence in Education* 52.

exhortation to move 'towards an expectation that all Australians should be educated about the First Peoples of this country.'[38]

To date, clinic activities have involved a wide range of criminal law casework, including submission writing, memos of advice, s172 *Mental Health Act 2016* (Qld) hearing submissions, bail applications, sentencing submissions, legal research, and law reform research. Students have also developed community legal education materials specifically relevant to priority areas of legal need for YFS Legal clients. These have included legal fact sheets on sexting, sex and the law, driving and the law, and parties and the law. When the clinic was impacted by the first wave of the Covid-19 pandemic in early 2020, supervisors quickly pivoted to involving students in simulated client role plays in lieu of face-to-face client conferences and court attendances.

To complement the practical criminal law training, clinic supervisors arrange numerous presentations and field trips to specialist courts and services, including the Wynnum Murri Court, and the District and Supreme Courts of Queensland. Many law students participating in the clinic have not been exposed to the Murri Court before. Murri Court is a Queensland initiative that brings Aboriginal and Torres Strait Islander Elders into legal proceedings to guide and encourage defendants and provide information and support to magistrates on matters of culture.[39]

Yarning was a deliberate design choice in formulating how cultural knowledge would be shared, and prioritised, in the clinic. Yarning can be defined as a talk or conversation that involves the sharing and exchange of information between two or more people socially or more formally.[40] As Bessarab and Ng'andu state, 'To have a yarn is not a one-way process but a dialogical process that is reciprocal and mutual.'[41] During presentations and field trips, students had the opportunity to meet with prominent First Nations members of the legal profession and observe courts in session. Meetings with Indigenous barristers and solicitors, judges and magistrates, and representatives of the Indigenous Law Association of Queensland (ILAQ) were common. Students also met with key departmental staff from Youth Justice, Queensland Legal Aid, ATSILS, and Child Safety about their roles and their work in interventions. The students also had the opportunity hear from Community Justice Group Elders and Respected Persons, Local Elders, and the Queensland Human Rights Commission. Held informally as yarning circles/sessions with leaders of the legal community, students listened to personal stories and understandings about the meaning of cultural safety from Indigenous perspectives. A key design feature of these engagements was to position students as

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38 ICCLAP *Final Report* (n 22) 22.

39 See generally Queensland Courts, *Murri Court* (Web Page) <https://www.courts.qld.gov.au/courts/murri-court>.

40 Dawn Bessarab and Bridget Ng'andu, 'Yarning About Yarning as a Legitimate Method in Indigenous Research' (2010) 3(1) *International Journal of Critical Indigenous Studies* 37, 38.

41 Ibid.

active listeners through observation and to develop the skills necessary for deep listening. This calls upon a requirement for 'still awareness' reminiscent of the practice of *dadirri*.[42] De-centring oneself through quiet, contemplative observation can provide the foundation for transformative learning not just through legal casework but from access to stories about others' journeys and the lived experience of people interacting with the law and our legal systems.[43]

As the foregrounding sections describe, the *Culturally Safe Criminal Law Practice / Cultural Immersion Clinic* offers students the opportunity to build their understanding of cultural safety through activities including legal casework, observation, and yarning. The design of these activities is underpinned by a range of theoretical frameworks that the next part of this article will introduce and analyse.

III THEORETICAL FRAMEWORKS

The clinic is informed by various theoretical frameworks that ground its creation. In this part, we explore different pedagogical theories that inform this clinic's design. Our brief examination of these multiple frameworks shows there are many ways to theorise learning about cultural safety through a clinical method. Our intention is not to prefer one method above another but rather to encourage action by demonstrating that many theories will support *getting it done.* We also provide examples of the application of theory through a generalised analysis of students' reflections. Our analysis reveals a variety of themes, including privilege, understanding why people might engage in criminal behaviour, personal and structural biases within the criminal justice system, and lack of cultural awareness within the legal profession.

A *Clinical Legal Education Methodology*

With its focus on experiential learning, clinical legal education methodology has been traditionally set apart from conventional law school approaches to teaching and learning. Clinical legal education is 'law by doing' and involves law students undertaking practical legal tasks alongside clients, student peers and legal practitioners in a social justice setting, usually for academic credit.[44] The social justice mission

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[42] Dadirri is a word, concept and spiritual practice that derives from the Ngan'gikurunggurr and Ngen'giwumirri languages of the Aboriginal people of the Daly River region in the Northern Territory. It is a phrase that has entered Australian consciousness largely as a result of the work of 2021 Australian of the Year Miriam-Rose Ungunmerr. See further, Miriam-Rose Ungunmerr, 'Dadirri: Inner Deep Listening and Quiet Still Awareness' (2017) 3(4) *EarthSong* 14.

[43] See, eg, Marcelle Burns, Russell Cavanagh and Melissa O'Donnell, 'Yarning About Lawyering with and for Rural and Regional Aboriginal Communities', in Amanda Kennedy, Jennifer Nielsen and Trish Mundy (eds), *The Place of Practice: Lawyering in Rural and Regional Australia* (Federation Press, 2017), 167.

[44] Although note that some clinics are run on a pro bono (voluntary) basis: Donald Nicholson, 'Legal Education or Community Service? The Extra-Curricular Student Law Clinic' (2006) *Web Journal of Current Legal Issues* 3.

of clinical legal education seeks to develop students' sensitivity to social justice concerns generated by the law and legal processes.[45]

The Best Practices for Australian Clinical Legal Education Guide (issued in 2012 but not since updated) does not mention cultural safety, but relevantly the Guide identifies the theme of 'law in context' in a clinical setting and describes clinical legal education as providing:

> an extra dimension for studying law in context: teaching law students to think critically about the law, rules and practices from a variety of perspectives… including gender, race, disability, socio-economic, philosophical, cultural, Indigenous, political and other social constructs. Studying law in context also means analysing the role of power in shaping the law and legal system; and analysing the role of lawyers and how they perpetuate, challenge and reform structures, institutions, systems and relationships.[46]

Taking students out of the classroom environment and into a practice setting where they are exposed to real-life clients in a supported and reflective environment affords them distance to critique not only themselves and their clients but their legal education itself. It provides a space for disrupting the culture of Anglo-Australian law,[47] and supports reflection about the type of law they may wish to pursue in practice (if indeed their reflection does not lead them to question a future career in the law) and the sort of professional path they may ultimately embark upon.

B *Adult Learning Theory*

The social justice mission of clinics is also informed by adult learning theory. Adult learning theory is an empirically confirmed methodology that provides the environment for students to encounter 'disorientating moments' from which they can explore, reflect upon, and ultimately explain through a reorientated perspective.[48] The disorientating moment challenges the student's worldview and assumptions of fairness and justice in a transformative manner.[49]

Mezirow's articulation of perspective transformation — that transformative learning can be produced from a disorientating moment — resonates for clinical legal education. For Mezirow, trigger events cause the learner to engage in critical thinking, focusing on a reassessment of societal and personal beliefs, values, and norms. Mezirow describes the phenomenon as follows:

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45 Jeff Giddings, *Promoting Justice Through Clinical Legal Education* (Justice Press, 2013) 61.

46 Adrian Evans et al, 'Best Practices: Australian Clinical Legal Education' (2012, Office for Learning and Teaching, Department of Industry, Innovation, Science, Research and Tertiary Education) 53.

47 Marcelle Burns, 'Are We There Yet: Indigenous Cultural Competency in Legal Education' (2018) 28(2) *Legal Education* Review 215, 235.

48 Fran Quigley, 'Seizing the Disorienting Moment: Adult Learning Theory and the Teaching of Social Justice in Law School Clinics' (1995) 2 *Clinical Law Review* 37, 50.

49 Lindsey Stevenson-Graf, 'Clinical Programs, Social Justice and Transformation Through Student Learning' (2019) 44(3) *Alternative Law Journal* 232.

> A disorienting dilemma that begins the process of transformation also can result from an eye-opening discussion, book, poem, or painting or from efforts to understand a different culture with customs that contradict our previously accepted suppositions. Any major challenge to an established perspective can result in a transformation. These challenges are painful; they often question deeply held personal values and threaten our very sense of self.[50]

In the clinic, students' prior perceptions are challenged when they are exposed to trigger events such as confronting criminal cases or the lived experiences of Indigenous guest speakers shared through yarning.[51] The pervasiveness of racism within our legal system and in our society is often shocking to students who harbour naïve assumptions of fair treatment. Such trigger events evoke the disorienting dilemma necessary for students to challenge their preconceived world views.

In order to fully benefit from this challenge, students must formally critically reflect on the experiences in light of their preconceived notions through course assessment in the form of reflective journals. Students' reflections provide insightful examples of their encounters with disorientating moments. For example, students have reflected on the profound impact of meeting a client face-to-face for the first time, or the impact of seeing the healing nature of alternative and diversionary justice programs in real time. Students commonly describe these kinds of experiences as life changing; experiences that help crystallise career pathway decisions with a social justice focus.

Paulo Friere and Mezirow are associated with the 'critical theory' of adult learning, which is based on adults' capacity to learn through critical scrutiny of both their own and their culture's values, assumptions, and beliefs.[52] One of Australia's leading clinical legal education scholars, Adrian Evans, says of Friere's work in the context of clinical legal education that 'it enables students and clients together to move beyond individual reflection to group reflection upon the underlying social injustices which diminish an equitable society'.[53]

In the clinic, students are guided through this reflective process both by iterative, informal discussions, yarning sessions, and debriefing sessions with YFS Legal staff and through their reflective journaling. Discussion is encouraged at the end of guest presentations to further unpack any issues that were novel, confronting or even confusing. YFS Legal staff also regularly debrief with students after court hearings or working on client matters in order to encourage a deeper understanding of the complexities of the issues and often provide an alternative

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50 Jack Mezirow, *Transformative Dimensions of Adult Learning* (Jossey-Bass, 1991) 168-169.

51 Some academics have argued that actual trigger warnings are needed in a clinical context. See, eg, Kate Seear 'Do Law Clinics Need Trigger Warnings? Philosophical, Pedagogical and Practical Concerns' (2019) 29(1) *Legal Education Review* 1.

52 Paulo Freire, *Pedagogy of the Oppressed* 1968 (Continuum, 20th anniversary rev ed, 1993). See also Gainsford, Gerrard and Bailey (n 26).

53 Adrian Evans, 'Teaching Note, Client Group Activism and Student Moral Development in Clinical Legal Education' (1999) 10(2) *Legal Education Review* 179, 179.

perspective to students' initial reactions. In their reflective journals, students are encouraged to focus on culture, often resulting in a discussion of social injustices disproportionately impacting Aboriginal and Torres Strait Islander Peoples. These reflections all contribute to an evolution of student learning, including critical analysis about societal injustice.

An aim of the clinic is to encourage students to act based on their shift in world views and deeper understanding of social injustice. Such actions may include, for example, engaging in more respectful and collaborative interactions with First Nations clients during the remainder of the clinic, initiating conversations with others regarding new insights to encourage a more enlightened community, and in their future capacity as lawyers, ensuring access to effective culturally safe services, at the right time and suited to the local community.[54] To determine which actions have actually developed in response to students' participation in the clinic, further research is needed in the future, including measurable parameters on First Nations engagements and service initiatives.

C *Service Learning*

Another pedagogical framework that informs the clinic is service learning. Law students are placed in relationships of service to their communities, and through this they develop an increased sense of social responsibility and civic engagement that is reflected in their behaviour and attitudes. The integration of meaningful community service with instruction and formal reflection prompts students to critique their role as future lawyers in serving their clients' needs and responding to broader issues of social justice.[55] Australian experts propose that clinical legal education is a specific example of service learning.[56]

However, we caution the application of a service learning framework in the absence of any critical race analysis. The work of Mitchell and her colleagues asserts that whiteness in service learning leads to the normalisation of patterns, privileges, and damaging stereotypes that must be disrupted.[57] Mitchell and her colleagues put forward strategies such as checking assumptions, taking a reflective stance, and teaching and talking about race as ways to challenge the prevalence of whiteness that is imbued within this pedagogical

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[54] See, eg, Universities Australia, *Indigenous Strategy 2022–2025*, (n 9), and related annual reports issued on the implementation of the Indigenous Strategy, and ICCLAP *Final Report* (n 22) 36.

[55] See Terence Lovat and Neville Clement, 'Service Learning as Holistic Values Pedagogy' (2016) 39(2) *Journal of Experiential Education* 1, 2; Loretta Kelly et al, 'Legal Practitioners Working More Effectively with Aboriginal Clients: Promising New Cultural Competency Training by Legal Aid NSW' (2013) 8(5) *Indigenous Law Bulletin* 3, 3.

[56] Adrian Evans et al, Best Practices Australian Clinical Legal Education, Final Report of the project *Strengthening Australian Legal Education by Integrating Clinical Experiences: Identifying and Supporting Effective Practices,* 2013, 10.

[57] Tania D Mitchell, David M Donahue, and Courtney Young-Law, 'Service Learning as a Pedagogy of Whiteness' (2012) 45(4) *Equity & Excellence in Education* 612.

approach.[58] We agree that engagement with a service learning framework must necessarily apply a critical race analysis to avoid reinforcing the patterns and privileges of whiteness. Several students reflected on feeling empowered by their experience at the clinic to engage in critical race conversations with other students outside of the clinic and take ownership of their agency and responsibility to call out injustice. Such comments are suggestive of behavioural and attitudinal changes that seek to expose and address racism and institutionalised injustice.

D *Critical Race Analysis*

Critical race scholars promote a 'race-conscious' jurisprudence as a necessary theoretical perspective 'to unmask the way law constructs knowledge about race'.[59] Further obstacles in the justice system can be presented through what Delgado and Stefancic term the 'majoritarian mindset'.[60] Therefore, exposing law students to the perspectives of Aboriginal and Torres Strait Islander Peoples and their lived experience of the Australian legal system is an important step in countering this dominance.

ICCLAP references the work of Nakata, who records that Indigenous knowledges are not limited to 'cultural' knowledge and also include 'knowledge of racism, colonialism and knowledges that are generated in response to external pressures, both positive and negative, at the 'cultural interface'.[61] This broader conception of what constitutes knowledge is embraced in the operation of the clinic.

Many clinic students reflected on systemic and personal biases that they observed and experienced during their clinical placement. Students were dismayed at discovering that profiling young people was something that in fact did occur in operational policing. In that example, a client had been charged with possession of graffiti instruments because he had black pens in his pockets, despite no evidence of graffiti on location. (The charges were ultimately dropped after advocacy by YFS Legal lawyers). Students demonstrated insight into their personal biases, admitting that prior to the clinic, they would place a lot of blame upon people living in disadvantage for factors beyond their control. Learning about intergenerational trauma and linguistic differences affecting First Nations people within the legal system shifted their presumptuous understanding about individual behaviour to a more nuanced position that included the pervasive impact of structural and

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[58] Ibid 624-626.

[59] Burns and Nielsen (n 4), citing K Crenshaw et al (eds), *Critical Race Theory: The Key Writings that Formed the Movement* (New York Press, 1995) 103.

[60] Richard Delgado and Jean Stefancic, 'Critical Race Theory: An Annotated Bibliography' (1993) 79(2) *Virginia Law Review* 461, 462.

[61] ICCLAP *Final Report* (n 21) 4, citing Martin Nakata, 'Indigenous Knowledge and the Cultural Interface: Underlying Issues at the Intersection of Knowledge and Information Systems' (2002) 28(5/6) *International Federation of Library Associations Journal* 281, 285.

systemic racism. Students expressed gratitude for how their participation in clinic helped raise their race consciousness.

E *Standpoint Theory*

Standpoint theory, in particular Indigenous standpoint theory, and its scholars have also informed our thinking about the clinic.[62] Standpoint theory is concerned with the formation of knowledge, recognising the impact that social position has, and acceptance that all knowledge is socially situated.[63] Denis Foley argues that Indigenous standpoint theory can help to preserve and develop Indigenous knowledges and support community empowerment.[64] Ardill explains that 'standpoint theory provides a way for scholars to conduct ethical research aimed at transforming colonial power'.[65] Standpoint theory demands that privilege is addressed and that a fundamental realignment or refocus is needed so that a critical framework can be applied to all knowledge.[66] Extending this concept to clinical legal education means that law students volunteering and working in a clinical setting must consider issues from a different standpoint to their own, specifically an Indigenous standpoint, before they can gain knowledge or insights. A common observation made by students was in relation to their supervisor's ability to hold multiple standpoints through her work as both as a lawyer and as a First Nations person – both an 'insider' and 'outsider' of the justice system.

An insight that draws parallels with standpoint theory came from a guest presenter, a senior Indigenous advisor at Legal Aid Queensland, who reflected:

> …the clinic] is addressing the dominance of white privilege and dominance within legal practice. Students migrate through mainstream primary, secondary and tertiary systems and arrive at a point of being a legal practitioner expected to advocate for people outside of their cultural and conditioned life experiences.
>
> I had the opportunity to deliver First Nations cultural perspectives to a group of students in the program and in general they had not heard of the experiences, history or narratives of First Nations Peoples in Australia and it challenged them and their thinking. We need more of these clinics.[67]

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[62] Dennis Foley, 'Indigenous Epistemology and Indigenous Standpoint Theory' (2003) 22(1) *Social Alternatives* 44; Martin Nakata, *Disciplining the Savages: Savaging the Disciplines* (Aboriginal Studies Press, 2007); Allan Ardill, 'Australian Sovereignty, Indigenous Standpoint Theory and Feminist Standpoint Theory' (2013) 22(2) *Griffith Law Review* 315.

[63] Ardill (n 62) 333.

[64] Foley (n 62) 50.

[65] Ardill (n 62) 317.

[66] Ibid 323.

[67] Email from X to Candice Hughes, 29 September 2020.

F *Yarning*

The analysis in this article makes repeated mention of yarning or storytelling. Yarning is an important element of Aboriginal and Torres Strait Islander culture and a method to facilitate the transmission of knowledge.[68] In academic terms, it is referred to as narrative theory.[69] Narrative theory 'enables empathetic consideration of personal experiences and provides increased opportunities for effective participation in the legal system'.[70] Delgado explains the impact of storytelling amongst marginalised groups in society:

> stories create their own bonds, represent cohesion, shared understandings, and meanings. The cohesiveness that stories bring is part of the strength of the outgroup. An outgroup creates its own stories, which circulate within the group as a kind of counter-reality.[71]

The clinic was intentionally designed to harness the power of yarning for law students. Law students are exposed to Aboriginal and Torres Strait Islander yarning through their interactions with YFS Legal clients and via presentations by guest speakers. These provided important opportunities for students to receive knowledge in a different style and to practise deep listening and observation that supports cultural humility and de-centring oneself.[72] The practice of yarning brings people together and fosters the notion of social bonds.

There was deep personal gratitude for the many guest speakers and the opportunity to listen to their stories. Students engaged in discussions about the need for lawyers to be anti-racist in their practice and to actively call out racism when they encountered it. This connected with conversations about the importance of cultural safety not just for clients but also for students and staff in workplaces, with students making the connection between safety and the ability to heal and learn. There was also strong gratitude expressed by students for how their clinic supervisors helped them develop legal skills, cultural awareness, and respect.

This brief tour of multiple pedagogical frameworks reveals the array of theoretical approaches available to move law schools from aspiration to action in teaching students about cultural safety. Student reflections deliver insights across the theoretical terrain and demonstrate that one or more frameworks can support transformative learning about cultural competence through a clinical method. No matter the scale of the attempt, teaching cultural safety requires curriculum action and critically informed pedagogical design, and *getting it done* through initiatives such as this clinic is an important and worthwhile first step

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[68] See, eg, Annette Gainsford and Sue Robertson, 'Yarning Shares Knowledge: Wiradyuri Storytelling Cultural Immersion and Video Reflection' (2019) 53(4) *The Law Teacher* 500.

[69] Richard Delgado, 'Storytelling for Oppositionists and Others: A Plea for Narrative' (1989) 87(8) *Michigan Law Review* 2411.

[70] Narelle Bedford, 'Storytelling in Our Legal System: Healing for the Stolen Generations' (2019) 45(2) *Australian Feminist Law Journal* 321, 321.

[71] Delgado (n 69) 2412.

[72] See previous reference to the work of Miriam-Rose Ungunmerr and *Dadirri*, (n 42).

that is scaffolded by substantial theory. This article will now turn to an evaluation of the clinic to yield additional insights.

IV EVALUATION OF THE CLINIC

This part lists what we consider to be the clinic's main strengths and success factors, followed by the identification of the limitations and challenges. It also presents some suggestions for other university law schools that might also wish to establish a similar clinical experience.

A *Strengths and Success Factors*

1 *Clinic Design Handed over to First Nations Partners*

In reflecting on the strengths of the clinic, supervisor Candice Hughes focused on the role of university allies in helping to *get it done.* A Law Faculty/School that is able to relinquish control of clinic design to the partnering community legal centre or frontline service and allow them to make decisions about how the clinic will run in a manner that is best suited to their operational needs (and the needs of their clients) will be supportive of culturally safe learning outcomes. For this clinic, Candice was given complete autonomy to design clinic activities, including yarning processes, in a way that she believed would best support both student learning objectives whilst also protecting clients with high vulnerability. Her ability to exercise autonomous professional judgment about how much access law students would have to clients and their case files — some of which were highly sensitive — was an important feature of ensuring cultural safety for clients. While both universities devolved power to Candice and YFS Legal for clinic design, they also simultaneously assumed most of the clinic administration, including student selection and recruitment, assessment, and pass/fail grading. Candice noted this as another positive aspect of clinic design because the weight of administrative tasks was absorbed by the universities.

Handing over control for clinic design reflects the principle of self-determination within the AIATSIS principles and ICCLAP. This approach goes further than the intent of the Universities Australia Indigenous Strategy 2022–2025, which states that true partnerships should give voice to Indigenous people in decision-making that affects them.[73] Here, we suggest handing over power and control of the curriculum design of the clinical course to Indigenous partners where that is welcomed/agreed to.

73 Universities Australia, *Indigenous Strategy 2022 – 2025* (n 9) 14.

2 *University Financial Support for Supervision and Operating Costs*

For this clinic, each law school remits a semester fee to YFS Legal for supervision and operating costs. All authors strongly support the view that universities ought to financially support community legal centres such as YFS Legal to cover student supervision and operating expenses. University law schools operate in an era of fiscal restraint, but they remain relatively well resourced in comparison to the community legal sector, with small centres like YFS Legal relying almost entirely on government funding. An Indigenous barrister at the private bar in leadership roles with the Indigenous Lawyers Association of Queensland stated:

> The legal clinic that is run through YFS Legal provides students with real experience and insight into a number of areas. Students are able to see the everyday workings of a Community Legal Centre, which provides essential services to vulnerable Queenslanders. Students are provided with training, including cultural safety training, to enable them to get the best insight on how to support clients from Aboriginal and Torres Strait Islander backgrounds, low socio-economic backgrounds, and young people. These diverse interactions, together with the legal skills they gain in a busy practice are essential for young lawyers to have and develop the tools they need in the future.[74]

Another strength is the location of the clinic within a community legal centre, as this means that the clinic operates in a place-based setting through the lens of the community. This reflects an element of cultural safety identified by Kwaymullina, namely the requirement to engage with Indigenous peoples on whose Country and organisation exists.[75] This clinic design feature meant that students were more connected in a holistic way to both the community and the clients.

A success factor for the clinic has been its capacity to practically demonstrate to law students the importance of bringing consciousness to biases and how awareness of one's own bias and acceptance of their existence can have a ripple effect when shared with other students. This awareness can arise from the priority placed on yarning in the structure of the clinic and through the leadership and guidance of an experienced First Nations lawyer.

B *Limitations and Challenges*

1 *Lack of Payment for Clinic Presenters and Guests*

One of the clinic's strengths (university financial support) is also a key limitation, as funds do not currently extend to payment for clinic presenters and guests from across Logan and Brisbane First Nations communities. Community Elders and Aunties who have yarned with the students about their lived experience of the Australian criminal

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74 Email from X to Candice Hughes, 29 September 2020.
75 Kwaymullina (n 17) 19.

justice system, as well as First Nations legal practitioners and members of the judiciary, have done so on a voluntary basis, and the clinic continues to rely on the unpaid labour of these presenters. An issue under consideration is the obligation of universities to provide further budget provisions to permit all presenters to be properly recognised and paid for their time and cultural expertise. It is an increasingly accepted norm that Elders and community leaders receive payment in recognition of the emotional toll in sharing their cultural knowledge, particularly when doing so may trigger traumatic memories for individuals whose lives have been shaped by institutional and societal racism. Not paying Elders or community leaders for their time will likely jeopardise the long-term sustainability of the clinic and stakeholder relationships, as well as perpetuate past practices of extraction of First Nations knowledges. It suggests this may not be an equitable partnership as defined by Kwaymullina.[76] The Universities Australia strategy notes the importance of recognising and supporting the cultural load on Indigenous staff and students. Broader payment would be consistent with the goals of this high-level strategy.[77]

2 *Incrementalism and Scalability*

Despite the resources provided by ICCLAP, Universities Australia, advocacy and messaging from CALD and the government, overall progress has been slow within the study of law and legal education towards fulfilment of the aim that every graduate from every Australian law school will emerge from their legal education with cultural safety awareness and skills.[78] This challenge is noted by Galloway, who states, 'the challenge for the academy of incorporating Indigenous contexts into the law curriculum remains' and that the challenge is 'more than technical and intellectual: it requires academics' adaptive change to develop their capacity to design and teach curriculum that embraces Indigenous contexts'.[79] Associated with this slow pace of change, an ongoing limitation of this particular initiative is the scalability of the clinical model of legal education. UQ sends three students per semester (six students every academic year) – roughly 2.5% of one year cohort within the law school. Bond's numbers are similarly modest, with two or three students participating in the clinic per semester. There is a widely held view that clinical legal education is costly to operate, given the small student to staff ratio.[80] Although some law schools do make law clinics a feature of their curriculum

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[76] Kwaymullina (n 17).

[77] Universities Australia, *Indigenous Strategy 2022 – 2025* (n 9) 47.

[78] Recognising recent positive developments such as those recorded by Amy Maguire and Tamara Young 'Indigenisation of Curricula: Current Teaching Practices in Law' (2015) 25(1) *Legal Education Review* 95, 96; Kwaymullina (n 17).

[79] Kate Galloway, 'Indigenous Contexts in the Law Curriculum: Process and Structure' (2018) 28(2) *Legal Education Review* 1, 1 and 21.

[80] Peter Joy, 'The Cost of Clinical Legal Education' (2012) 32(2) *Boston College Journal of Law & Social Justice* 309, 327.

offerings, compared to compulsory Priestly-11 course offerings, the overall numbers of students enrolling in the clinic remains small.[81]

3 *Lack of Overarching Curriculum Alignment*

A further challenge that the authors observe is that, in our experience as clinical educators, law clinics work best when there is curriculum alignment with a student's study pathway. If students are not learning about Indigenous perspectives in compulsory courses and their only opportunity to encounter Indigenous perspectives is in a clinic, this places considerable weight on clinic educators to deliver transformational education. In our view, more work needs to be done to embed Indigenous learnings throughout legal education to optimally prepare students for the clinical experience.[82] Initiatives taken by other law schools to offer cultural immersion courses within an overarching theme of 'scaffolded reflective practice' throughout the whole law course are signs of progress.[83] This goes to the importance of moving towards Indigenisation of the law curriculum and the fundamental importance of ICLAAP.

V CONCLUSION

In 2018, Marcelle Burns and Jennifer Neilson described their experience in offering an elective subject, Race and Law, as a 'modest intervention into the law curriculum'.[84] The authors of this article contend that this clinical legal education course is also a modest yet important contribution that can provide other Australian law schools with an opportunity to engage students with issues of cultural safety within their curricular offerings. Through an analysis of supervisor, student, and stakeholder reflections, this article reveals that the clinical method can deliver strong cultural safety learning outcomes which can be explained by multiple pedagogical and theoretical approaches.

Law clinics have long been recognised as an effective way to engage law students with the community. However, this clinic is unique in that it counters the silence on race and violence (addressed at the beginning of the article) by providing an environment for students not only to listen to strong voices of respected Elders and First Nations people excelling in the legal field but also because it creates space for students

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[81] See the breadth of offerings by Australian universities documented in Kingsford Legal Centre, Guide to Clinical Legal Education Courses (13th ed, 2019–2020), *Kingsford Legal Centre* (Web Page), https://www.klc.unsw.edu.au/sites/default/files/documents/2924%20CLE%20guide-WEB.pdf.

[82] See generally Part III of N Bedford, T McAvoy and L Stevenson-Graf, 'First Nations, Human Rights and Climate Change' (2021) 40(3) *University of Queensland Law Journal* 371, 394.

[83] Gainsford and Robertson (n 68) 503; Annette Gainsford, 'Connection to Country–Place-Based Learning Initiatives Embedded in the Charles Sturt University Bachelor of Law' (2018) 28(2) *Legal Education Review* 1.

[84] Burns and Nielsen (n 4) 379.

to be immersed in cultural knowledge sharing through yarning conversations and practice.

Notwithstanding these positive aspects, the authors anticipate that challenges will continue to arise in terms of First Nations experiences with the Australian legal system. First Nations people continue to be over-represented in the child protection system,[85] the criminal justice system,[86] and deaths in custody continue to occur.[87] Since writing this article, the Referendum on an Indigenous Voice to Parliament was also held. The implications of that failed constitutional reform on the lived experience of First Nations Peoples and the broader project of treaty and truth-telling will be deep and long-lasting and will likely influence efforts to reform contemporary Australian legal education.[88]

Our experience in designing and implementing this clinic and sharing the learning outcomes will hopefully contribute to a wider discussion about the rationale for adopting clinical legal education as one vehicle for the development of Indigenous cultural safety within the study of law.

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[85] See generally BJ Newton, 'Aboriginal Parents' Experiences of Having Their Children Removed by Statutory Child Protection Services' (2020) 25(4) *Child and Family Social Work* 814, 815 and Susan Baidawi, 'Crossover Children: Examining Initial Criminal Justice System Contact Among Child Protection-Involved Youth' (2020) 73(3) *Australian Social Work* 280, 282.

[86] See generally Amelia Radke, 'Women's Yarning Circles: A Gender-specific Bail Program in one Southeast Queensland Indigenous Sentencing Court, Australia' (2018) 29(1) *The Australian Journal of Anthropology* 53, 56.

[87] See generally Alexandra Gannoni and Samantha Bricknell, 'Indigenous Deaths in Custody: 30 Years Since the Royal Commission into Aboriginal Deaths in Custody' (2021) 13(2) *Australasian Policing* 12, 13.

[88] See, eg, Narelle Bedford, 'The Aftermath: What if the Voice Referendum Does Not Succeed?' (2023) 34(2) *Public Law Review* 156, 161-162.