

In Search of the Crazy Rich Asians: Multiculturalism in Australia Post COVID-19

By Lee-May Saw

It is very easy to be labelled a 'Crazy Rich Asian' for being a Chinese Asian Australian member of the New South Wales Bar. I do not consider that contemporary obsessions with Australia's trade relations with China assist this phenomenon. Nor do community tensions on issues of race in the wake of the virus that has disrupted the way of life as we knew it.

More than seven decades since the abandonment of the White Australia Policy, the senior ranks of Australia's public institutions remain stubbornly monochromatic, despite the controversial rise of the notion of the "Crazy Rich Asian" in recent times. This trend is also markedly etched in the ranks of the New South Wales Bar.

With the aftermath of COVID-19 calling into question key foundations of Australian national identity, perhaps it is time for the discussion on cultural diversity at the New South Wales Bar and in the broader legal profession to take a step back from arguments about how legal services further the business case and focus instead on matters of fundamental human rights. Alternative models for legal service provision targeting significant barriers to access to justice faced by members of the multicultural community, such as a multicultural community legal service utilising the specialist skills of bilingual and multilingual lawyers and community workers, are but one aspect of what makes an illuminating discussion on multiculturalism in Australia.

What might be achieved by the introduction of a Multicultural Community Legal Service in New South Wales?

Community legal centres play a pivotal role in the delivery of specialist services to relevant sectors of the community, raising awareness and advocating on key issues faced by that community, and training and educating students, lawyers and community workers to provide specialist services. At present there is a multicultural legal centre



which employs bilingual and multilingual lawyers in Perth, Western Australia, but not in any other state or territory.

Existing community legal centres in New South Wales are heavily reliant on accessing and utilising interpreters in the delivery of legal services to the multicultural community. Solicitors employed at community legal centres, including those with bilingual and multilingual skills with the potential to be developed, are also trained to provide legal services by accessing and utilising interpreters, as are students and solicitors and barristers who compliment the work of employed solicitors with their voluntary work. With the development of trade relations with Asia and opportunities in relation to cross-border work over time, this has had certain consequences on the capacity of the New South Wales legal profession and the New South Wales legal system to keep up with the needs of the increasingly multicultural community in New South Wales when it comes to access to justice and legal services.

The establishment of an appropriately resourced and funded multicultural legal centre in New South Wales and other states and territories could go some way to furthering existing specialist services, and minimising "gaps" between gender for example and cultural diversity as specialised areas of diversity and inclusion.

The 2013 Commonwealth Joint Standing Committee on Migration *Inquiry into Migration and Multiculturalism in Australia* report,¹ and the 2017 Commonwealth Senate Select Committee on Strengthening Multiculturalism *Ways of Protecting and Strengthening Australia's Multiculturalism and Social Inclusion* report,² record some of the limitations in the legal framework in enshrining principles of multiculturalism, and regulating systemic and cyber racism.

Objective 2 of the National Anti-Racism Strategy, targets good practice initiatives to prevent and reduce racism. Objective 3 targets the empowerment of communities and individuals to take action to prevent and reduce racism and seek redress when it occurs. Both objectives involve the alignment of legal protections and access to legal protections, which could be a core part of the work undertaken by a multicultural legal centre.

The training and education that a well resourced multicultural legal centre could provide, might additionally make a considerable contribution to the pipeline of culturally diverse lawyers trickling up through the legal profession, the skills and services that such lawyers could cultivate and deliver to the community, and the quality of access to justice and legal service provision via courts and the legal system overall.

Multiculturalism in Australia Pre-COVID-19

While Australian multicultural policy is most commonly compared to multicultural policy in Canada, identifying as a Person of Colour in Australia is not the same as identifying as a Person of Colour anywhere else in the world. This is because even after all the major faults of Australian race relations history are acknowledged, Australian multiculturalism is a unique international brand that we can certainly be proud of in principle. The differences between the Black Lives Matter movement in the United States of America compared to the Black Lives Matter movement in Australia, are an instance that highlight by way of example some of the localised aspects of Australian multiculturalism.

The 2017 Commonwealth Senate Select Committee on Strengthening Multiculturalism report observes that:

According to the 2016 *Mapping Social Cohesion* survey, 83 percent of Australians agreed that multiculturalism has been good for Australia. 74 per cent felt that people of different national or ethnic groups in their local area got on well together. These figures indicate high levels of social cohesion in Australia and have been consistently high since the survey began in 2007.

However, the results also show increased negativity regarding immigration intake and toward the proposition that 'we should do more to learn about the customs and heritage' of minorities. This was also reflected in the Australian Bureau of Statistics *General Social Survey*, which found that 4.4 per cent of Australians disagreed with the statement 'it is a good thing for society to be comprised of different cultures'.³

These observations were made five years after the National Anti-Racism Strategy was released in 2012, now just under a decade ago.

According to the 2016 census, in 2016 21% of the New South Wales population were from a non-English speaking background. In 2016 New South Wales was home to 33.6% of Australia's overseas born population, with Sydney having the largest overseas born population of all capital cities, and Mandarin (3.2%), Arabic (2.7%), Cantonese (1.9%), Vietnamese (1.4%) and Greek (1.1%) being the five most commonly spoken languages. Multicultural NSW advises that in New South Wales we come from 307 ancestries, practice 146 religions and speak more than 215 languages.

The Anti-Discrimination NSW 2019-2020 Annual Report indicates

that race discrimination was the second most common type of discrimination raised in enquiries received by Anti-Discrimination NSW in 2019-2020. This constituted 11.9% of enquiries received by Anti-Discrimination NSW, and compared to 20.2% of enquiries being received about Disability Discrimination, in 2019-2020.⁴ A Lowy Institute survey published in March 2021 suggests that about 18% of Chinese Australians were physically threatened or attacked in the previous twelve months because of their Chinese heritage.⁵ The Women Lawyers' Association of NSW Career Intentions Survey found that 32% of law graduates from university law schools across New South Wales in 2013-2015 spoke a language at home other than English, with Cantonese (7.4%), Mandarin (5.9%), Hindi (2.8%), Arabic (2.2%) and Italian (1.3%) being the five most commonly spoken languages. In 2018 the NSW Bar Association published data indicating that about 80.2% of the New South Wales Bar identify as being of English, Irish or Scottish ancestry.⁶

This brief snap shot of relevant available published data, paints a picture telling us that more needs to be done about ensuring the legal profession in New South Wales is optimally placed to service the increasingly multicultural population in New South Wales.

Where to from COVID-19 for multiculturalism and cultural diversity at the New South Wales Bar

Australia's last national census was held in 2016. Australia's next national census is due to be held on Tuesday 10 August this year, and is set to coincide with key developments in the metrics of data collection on cultural diversity and the setting of cultural diversity targets, including a review by the Australian Bureau of Statistics on such measures. It is perhaps fitting in light of this that earlier this year the Asian Australian Lawyers Association NSW Branch and Women Lawyers' Association of NSW established a Special Joint Data and Policy Subcommittee who are looking at how cultural diversity targets for the legal profession might be set. It is notable that there continues to be no international standard for the setting of cultural diversity targets unlike what was historically the case for the setting of gender targets.

As a not so crazy rich Australian born Malaysian Chinese Australian member of the New South Wales Bar, the remarks of Ms Isabel Lo to the 2017 *Ways of protecting and strengthening Australia's multiculturalism and social inclusion* inquiry about the way in which housing affordability issues have been disproportionately linked to foreign investors, particularly of Chinese descent, strike home:

Now if we drill down and have a look at the numbers, Chinese foreign owners account for just one per cent of the entire market. That is not really what is causing sky-high prices; it is local investors. That kind of dominant voice, without the other side arguing for the alternative look, means there is a social impact. It trickles down to the average buyer. I am of Chinese Australian background, and that kind of rhetoric has had an impact on me. When I turn up to a house auction, for example, I get the sense that there are a lot of negative views towards me. I walk in and they think: 'Oh, no; it's a foreign buyer. There's no way we're going to be able to afford this house now'. There is a very negative view of every Asian person who is looking to buy a house. It is feeding the hysteria of frustrated buyers.⁷

COVID-19 may have caused Asian Australian race relations to achieve a milestone in a number of simultaneously negative and positive dimensions, but perhaps this was the kind of shake up needed to remind us that cultural diversity and inclusion is as much about every day human rights as it is about the business case.

Cultural diversity and multiculturalism in Australia and the Australian legal profession is a reflection of Australia's own complex journey of identity as a nation, where historical waves of migration, international trade relations and race relations intertwine and interplay. The capacity of the New South Wales Bar in supporting this journey through the delivery of critical legal services will continue to challenge and shape the New South Wales legal system as we unwind from the long term impacts of COVID-19. As with previous memorable moments in history, out of crisis opportunity is born. I look forward to working with the leadership of the New South Wales Bar in seizing the opportunity to dismantle the monochromatic structures of the New South Wales Bar. **BN**

ENDNOTES

- 1 Joint Standing Committee on Migration, *Inquiry into Migration and Multiculturalism in Australia*, March 2013 [Internet - file:///D:/Downloads/http_www.aphref.aph.gov.au_house_committee_mig_multiculturalism_report_fullreport.pdf. (Accessed 28 December 2020)], at 36-39.
- 2 Select Committee on Strengthening Multiculturalism, *Ways of protecting and strengthening Australia's multiculturalism and social inclusion Final Report*, August 2017 [Internet - file:///D:/Downloads/report.pdf. (Accessed 28 December 2020)], at 73-80.
- 3 Above, at 3.
- 4 Anti-Discrimination NSW, *ADNSW Annual Report 2019-2020*, 2020 [Internet - <https://www.antidiscrimination.justice.nsw.gov.au/Documents/Anti-Discrimination-NSW-Annual-Report-2019-20.pdf>. (Accessed 11 March 2021)], at 22-23.
- 5 Lowy Institute, *Being Chinese in Australia: Public Opinion in Chinese Communities*, 3 March 2021 [Internet - <https://interactives.lowyinstitute.org/features/chinese-communities/topics/experiences-of-discrimination>. (Accessed 11 March 2021)].
- 6 I Taylor and C Winslow, "Data on diversity: the 2018 survey", *Bar News* [2019] (Autumn) 39, at 39.
- 7 Above, n 2, at 45.