



Michael &
Suzanne
Borrin
Foundation

Fofola na ibe – Improving Pasifika Legal Education in Aotearoa Report on Talanoa Research Findings and Recommendations

A Report for the Equity, Belonging, Power/Authority –
How can law, policy and practice support Pasifika law
students – Improving Pasifika Legal Education Project

Mele Tupou-Vaitohi & Wiliame Gucake
Researchers



VICTORIA UNIVERSITY OF
WELLINGTON
TE HERENGA WAKA



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Fofola na ibe

[forfor-lah] [nah im-beh]

The title interweaves Tongan (*fofola* – to lay out) and Fijian (*na ibe* – the mat), reflecting a wide cross section of all Pasifika cultures the report’s findings and recommendation are to support and is a play on the Tongan saying ‘*Fofola e fala kae talanga e kainga*’ – rolling out the mat so the family can dialogue.

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We have only been able to reach this point with considerable help and we are indebted to those who helped us on the journey of this research project. In that spirit, we would like to acknowledge those who assisted us along the way.

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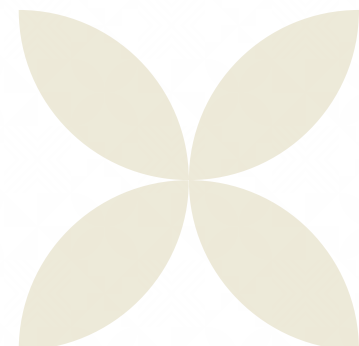


Pasifika Legal Academics, Student Support and Alumni

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Executive Summary – Harvesting the Pandanus

From time immemorial, Pasifika peoples have laid out fine mats in their meeting houses, for all together to discuss and collaborate on critical issues. Following that tradition, we do so now. This project represents a fine mat interwoven by strands of scholarly literature, context, data and *Talanoa* to reveal an intricate pattern of Pasifika in the law. As the laying of the mat symbolises the time for discussion, this report aims to provide a platform to open discourse about how Pasifika can be supported to succeed in law.

This report represents the second fruit of the pandanus plant: the presentation of our *Talanoa* findings and corresponding recommendations. It follows the first fruit, our literature review. The research takes a qualitative approach to understanding the experiences of Pasifika law students and legal professionals through *Talanoa*. The *Talanoa* that happened through this project was the first of its kind and there was inherent value in bringing people together to share experiences. *Talanoa*, which means ‘to tell stories’, is a well-established indigenous Pasifika research methodology where a space is created for people to share their experiences, reflections and perspectives – in this case, in relation to their journeys in legal education and in the legal profession.



Pacific Lawyers Executive 2022

This section outlines the key findings of the report. The fine mat, as indicated above, is an essential metaphor used to explain the story of Pasifika in the law. The context of this project is vital. The project was developed from the determination of Pasifika law students, practitioners, and academics to address the appalling statistics in law, whereby Pasifika make up 8.1% of Aotearoa’s population,¹ but only around 7% of LLB graduates and 3% of the legal profession, such that in 2021 there were only 517 registered Pasifika lawyers, a ratio of just one Pasifika lawyer to every 802 Pasifika people.²

Pasifika law students are significantly represented where there are high densities of Pasifika populations, such as in Auckland. A sizeable cohort of Pasifika students is vital to support a sense of Belonging within a law school for them to succeed. It is also apparent that most Pasifika students study law at the undergraduate level, with a significant scarcity of postgraduate students. These statistics are concerning due to the requirements of postgraduate education for academic positions. Pasifika cannot progress to such pathways if they are not achieving postgraduate qualifications. There are also clearly issues of attrition and retention within the data on rates of course completion, qualification completion and first-year retention.

Most law schools provide a raft of initiatives and services to support Pasifika law students to succeed. Only two law schools have targeted admission pathways. Currently, however, only 17 individuals of Pasifika descent are in academic positions in law faculties.

A mat is not always made up of only a single pattern, but of different intricate patterns that combine to reveal a more significant pattern. Similarly, our *Talanoa* research has shown various findings that weave together to form the picture. These findings are summarised below, grouped under the following headings:

1 Statistics New Zealand “Pacific Peoples” (2018) <<https://www.stats.govt.nz/tools/2018-census-ethnic-group-summaries/pacific-peoples>>.

2 James Barnett, Marianne Burt, Navneeth Nair, ‘Snapshot of the Profession’, (LawTalk, New Zealand Law Society, Wellington, 2021) <www.lawsociety.org.nz>.

1. Pasifika in the Law

Pasifika identity is integral to how they interpret the world and how they are treated. Standing at the heart of their sense of self are values and beliefs rooted in the family, relational obligations and reciprocity. Their identity filters through all aspects of themselves, particularly at the relational level. Their identity also influences how and what they practice. Pasifika students' decisions to study law are generally closely linked to the law being a vehicle for change, both in the long term to help Pasifika communities and directly to being able to be in a better financial position to support one's family. Pasifika are master weavers, deftly weaving pathways between the Pasifika world at home and the Western world at university or work. Law schools and the legal profession are demanding environments where Pasifika adopt survival mindsets to build resilience and perseverance, making high achievement difficult. Pasifika law students must often push themselves out of their comfort zones and assert themselves to succeed.

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

2. Educational Preparedness

The lack of educational preparedness of Pasifika for a law school is deep-rooted and a significant barrier to increasing the number of Pasifika lawyers in Aotearoa. The *Talanoa* reveals that many Pasifika face difficult transitions from secondary school to law school. Pasifika students at university do not start from the same position as everyone else. Going to a private or semi-private school can result in better educational and even social preparedness for law school, compared to education at low-decile high schools that are generally found in areas with large Pasifika populations. The Tertiary Data Warehouse data³ from the universities in New Zealand has shown that the number of students coming to law school might be limited by the lack of University Entrance achievement at the lower decile schools. For example, in 2014, 40% of LAWS100 students at VUW came from Decile 9 secondary schools and 60% from Decile 10 secondary schools. By 2017, that had shifted dramatically; but over half had gone to Decile 6 and above schools. The lack of support for Pasifika high school students means they may make NCEA subject choices that do not support them in preparing for law school.

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

³ University combined Single Data Returns (SDR) supplied as the official reporting to TEC and Ministry of Education, New Zealand.

Executive Summary – Harvesting the Pandanus

3. Lack of Belonging in Law Schools

One of the most common barriers identified by the *Talanoa* participants for their success in law school was that they found the law school environment as unwelcoming for Pasifika in Aotearoa. Most participants reported that law schools are spaces where Pasifika lack a sense of Belonging, creating a further barrier to their success. *Talanoa* participants reported feeling like a “fish out of water” in law school, having to adopt new ways of thinking, social interaction, learning, interpersonal relations and even food. They feel disconnected from their communities and can struggle to find a new one at university. *Talanoa* participants commented that considerations of dropping out were not uncommon and even constant due to feelings of isolation. The lack of Belonging means Pasifika students find academic participation very difficult, and they are hesitant to ask questions for fear of being ridiculed. Law schools are often not inclusive and culturally competent, with some *Talanoa* participants reporting racist experiences with staff.

4. Teaching and Learning

Most of the *Talanoa* participants reported that the current pedagogical and learning environment settings within law schools do not support Pasifika students to succeed and sometimes even oppress Pasifika. Cultural competency must be developed within law schools, so that staff understand the rigour and resilience required of Pasifika students to survive law school and the cultural identity that underpins them.

Pasifika Law Student Associations are undervalued for the support systems they provide for Pasifika students and often carry out academic support that law schools should undertake. These associations are overworked and underfunded to support Pasifika at law schools. Many Pasifika students do not have access to existing networks to help them understand the operation of a law school, which is critical for success. There is also an absence of Pasifika content within the law school curriculum, which often minimises the impact and presence of Pasifika in the law to their appearance in judgments; many participants expressed strong

desire for greater incorporation of Pasifika culture into law school curricula. Connected to this is the lack of support for Pasifika to pursue postgraduate studies. Such initiatives are vital to increasing the number of Pasifika legal academics in Aotearoa.

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

5. Conflict of Cultures

Pasifika culture and Western legal culture are often at polar opposite ends, with Pasifika being a communal people who prioritise service to the collective over the individual, whereas the dominant Pākeha culture privileges individual efforts and assertiveness. Language is a significant issue for Pasifika; many are second-language learners and have not been exposed to the same academic or legal language required by law schools. Many participants arrive at law school without support networks, having moved away from home. Pasifika culture – such as family, church and cultural practice – can make it challenging to balance legal studies and may hinder the achievement of high grades if not appropriately handled. Therefore, Pasifika usually juggle several competing priorities between obligations to family and community against those to education or work.

6. Equity and Racism

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

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

7. Bullying and Harassment

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

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



Executive Summary – Harvesting the Pandanus

8. Lack of Belonging in the Legal Profession

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

The legal profession is monocultural, with deep-rooted systemic privilege. Pasifika people comprise only 3.3% of the legal practitioners in New Zealand.⁴ There are a small number of Pasifika judges in the country and an even smaller number of Pasifika legal academics.

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

While many in the profession promote diversity, there is a considerable gap between the goal of diversity and actual practice. Most participants revealed that employers continued to hire mainly Pākeha on recommendations from judges, other partners, or senior lawyers. These underlying advantages due to socio-economic background reflect the elitism within the profession. Even knowing a Pasifika lawyer may not provide the same network, as many participants expressed how their recommendations are not taken seriously by their employer. There are also issues where current hiring practices privilege grades and do not account for equity. Such practices do not recognise or value the interpersonal skills of many Pasifika law students, which are critical for client and professional relationships.

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

⁴ Geoff Adlam "Diversity in the New Zealand legal profession: At a glance" *LawTalk* (Volume 932, Wellington, September 2019) 61 at 64.

Recommendations

Weaving those findings together, an intricate mat is revealed. The mat is laid out through our recommendations to law schools and universities, the legal profession, and the Government. These are summarised below:

I. Law Schools and Universities

1. That each law school and university develop a plan to ensure long-term educational equity for Pasifika students by enhancing Pasifika student retention, progression and completion in LLB programmes. In particular, the law schools and universities consider the following measures and practices:
 - i. Setting aside a number of discretionary admission places in law schools for Pasifika students, possibly conditional on the applicants successfully completing the pre-law programme in Recommendation 2.
 - ii. Providing spaces with a distinctive Pasifika character to facilitate student networks.
 - iii. Delivering coherent and cohesive culturally responsive support services to Pasifika students, with clearer reporting, to help meet responsibilities under the Education (Pastoral care of Tertiary and International Learners) Code of Practice 2021.
 - iv. Providing outreach programmes and initiatives to Pasifika communities aimed at raising aspirations and academic preparation for students interested to pursue a law-related career.
 - v. Coordinating with the Pacific Lawyers Association to replicate across law schools structures similar to the *Malosi Project* which is student-led and funded by a law school and a law firm.
 - vi. Developing a programme for first year Pasifika law students to help improve their familiarity with their new environment.
 - vii. Providing Pasifika academics and professional staff with information and advice about how they can progress within the law school.
 - viii. Providing Pasifika law students with information on career pathway choices and the many routes from law school to practice and professions where they can use their law degrees.
 - ix. Informing and preparing incoming Pasifika law students for the culture shock and social isolation they may experience at law school as well as the different support programmes and personnel available to them in the law school and university.
 - x. Setting goals for funding and numbers of postgraduate Pasifika students to overcome barriers to access postgraduate education, and support and assist their Pasifika students with applications to undertake postgraduate law studies overseas.
2. That the law schools and universities in Aotearoa New Zealand establish a pre-law programme that will help the students develop the academic skills necessary for law school within the context of a culturally relevant curriculum.

To implement this recommendation, law schools and universities should develop strategies to ensure all Pasifika students (who attend the pre-law programme recommended above) are provided with the financial means to do so.

Recommendations

3. That law schools and universities diversify their curricula and pedagogical practices to include Pasifika views and values. In particular, law schools and universities consider the following measures and practices:
 - i. Employing researchers to prepare Pasifika material and elements to use in law courses.
 - ii. Establishing an Advisory Panel of Pasifika lawyers to review their curriculum and support the incorporation of Pasifika legal issues and materials.
 - iii. Placing greater emphasis on collaborative ways of learning and assessment, rather than only on individual achievements.
 - iv. Reviewing grading systems to include Pasifika students' competencies such as natural oratory, community networks and people skills which are key in advocating for and working with clients in legal practice.
 - v. Preparing annual reports (including data) to summarise their Pasifika initiatives related to their curriculum, law school environment and progress on implementation of the recommendations in this report.
4. That law schools and universities continue to identify and respond to the discrimination that Pasifika law students experience. In particular, law schools and universities should consider the following measures and practices:
 - i. Educating all incoming law students as to the rationale and justification for the discretionary and targeted admission categories and how they make a positive contribution to the law school and legal profession.
 - ii. Implementing a comprehensive Pasifika equity policy that sets out equity objectives and activities in the areas of admissions, curriculum, faculty recruitment and law school environment.
 - iii. Continuing to promote values of anti-racism and anti-discrimination in the law school environment through educational activities such as racism workshops and cultural awareness sessions.
5. That law schools and universities take active steps to support Pasifika law academics and professional staff. In particular, law schools and universities should consider the following measures and practices:
 - i. Diversifying their teaching staff by creating foundational opportunities as in programmes, such as 'Susuga Faiako'/Teaching Fellow positions at the University of Auckland and Assistant Lecturer positions at VUW.
 - ii. Recognising in their promotion policies and practices all of the service and leadership activities carried out by Pasifika academic and professional staff, even if not under an official title.
 - iii. Recognising and supporting the work of Pasifika law academics in contributing to various efforts underway to create a multidisciplinary network among Pasifika academics and/or a Pacific Research Entity.
 - iv. Embedding a sustainable Pasifika leadership structure in the law schools to empower Pasifika leadership and influence.
 - v. Appointing champions with the required skills, knowledge and passion developing innovations leading to safe learning environments for Pasifika students and staff.
6. That law schools and universities create platforms and mechanisms that will connect and bring together the community and the legal profession to *Talanoa* so they can talk about the issues of law and justice together.

II. The Legal Profession

1. That the New Zealand Law Society create a comprehensive model employment equity policy for law firms to ensure Pasifika lawyers do not experience discriminatory barriers in the practice of law and to prevent bullying and harassment. In particular, the New Zealand Law Society should consider the following measures:
 - i. Reviewing the Rules of Conduct to reinforce the professional obligations of all lawyers to recognise, acknowledge and promote the principles of equity, diversity and inclusion.
 - ii. Appointing a working group to formulate the model employment equity policy, including Pasifika and non-Pasifika lawyers and an employment equity/diversity specialist.
 - iii. Providing a clear guide for good practices and promoting examples of good employment practices in the practice.
 - iv. Promoting the full participation of Pasifika lawyers in the Law Society, private practice and the judiciary.
 - v. Developing an action plan to encourage full implementation of anti-discrimination measures that requires firms to have anti-discrimination policies.
2. That the New Zealand Law Society develop initiatives that will build better communication between lawyers and Pasifika clients. Initiatives may include developing a Pasifika protocols or toolkits for lawyers to aid in legal practice. In particular, the New Zealand Law Society should consider the following measure:
 - i. Providing training programmes that would enhance law practitioners' understanding of the diverse communities that make up Aotearoa including the Pasifika communities.
3. That the New Zealand Law Society take steps to enhance the position of Pasifika lawyers within the profession by:
 - i. Advocating for Pasifika representation in positions of responsibility, such as King's Counsel, Judges of the Senior Courts, or representatives on important committees of the New Zealand Law Society.
 - ii. Encouraging Pasifika lawyers to apply for judicial appointments and to put their names forward for appointment to positions of responsibility in the New Zealand Law Society.
4. That the New Zealand Law Society should encourage the profession to increase the number of organisations, law firms, and in-house legal departments that offer Pasifika internships. Support programmes like *TupuToa*⁵ and *Tupu Tai*⁶ should be encouraged to include more opportunities for Pasifika law students; and the Government Legal Network should be encouraged to offer opportunities for Pasifika.

5 *TupuToa* programme is an employment pathway that provides professional opportunities for Māori and Pacific tertiary students in corporate, government and community organisations. <https://tupuToa.org.nz/>.

6 *Tupu Tai* programme offers internships for Pasifika students in the public sector. <https://jobs.mbie.govt.nz/content/Tupu-Tai-Pasifika-Public-Sector-Summer-Internship-Programme/>.

Recommendations

5. That the New Zealand Law Society create programmes or activities that would assist and prepare Pasifika law students for the life after law school (seeking jobs). In particular, the New Zealand Law Society may consider the following measures:
 - i. Creating a mentor programme to provide the Pasifika law students with a support link in the legal profession.
 - ii. Appointing a full-time staff person who would be responsible for facilitating Pasifika access to legal job opportunities and to help eliminate discriminatory experiences in the hiring process.
 - iii. Working with private law firms to create equity hiring programmes for Pasifika law students, and conduct equity education activities for law firms in order to minimise the experience of discriminatory treatment.
6. That the New Zealand Law Society require diversity and Pasifika staff from legal service providers. In particular, the New Zealand Law Society should consider the following measures:
 - i. Developing plans and initiatives such as seminars or workshops, on social context education programmes on Pasifika issues.
 - ii. Reporting in their annual reports on the extent and progress of the implementation of the recommendations and related matters in this report.

III. Government

1. That the New Zealand Government takes leadership in addressing the ongoing barriers faced by Pasifika law students and graduates in Aotearoa New Zealand. In particular, the Government of New Zealand should consider the following measures:
 - i. Reviewing the current student loan and allowance policies, which currently do not adequately address the financial inequities faced by Pasifika at university and particularly at law school.
 - ii. Requiring a diversity action plan within the government legal network and monitoring the implementation of this plan in the recruitment, promotion and retention of Pasifika lawyers.
 - iii. Auditing how law schools meet their requirements to support Pasifika success, and provide a consistent funding pool to support these initiatives.
 - iv. Providing scholarships to support Pasifika to pursue postgraduate studies in law.

In conclusion, we proffer these recommendations as our mat that we lay down (*fofola*) and now open up for discussion at all levels, from garages to dinner tables to judicial benches and Cabinet. One strand alone cannot weave a path forward, but our collective efforts can weave a new future for Pasifika in the law. This report is only the beginning of a conversation to be had on the mat, and we encourage more discussion and research in this area in the future.

CHAPTER 1: Introduction – Preparing the Pandanus

“Society is like a mat being woven”.⁷

The project *Equity, Belonging, Power/Authority – How can law, policy and practice support Pasifika law students – Improving Pasifika Legal Education Project* is a collaboration between the Office of the Assistant Vice Chancellor for Pasifika at Te Herenga Waka – Victoria University of Wellington (VUW), the law schools of all Universities in Aotearoa New Zealand, and funded by the Michael and Suzanne Borrin Foundation. It explores why Pasifika people are underrepresented in the legal profession, judiciary and legal policy-making roles and also makes recommendations. Through this project, we hope to find ways to support more Pasifika people to succeed at law school and enter the legal profession. Aotearoa New Zealand needs more Pasifika lawyers to help their communities navigate the legal issues that touch their lives, whether in connection with access to civil justice, family law, or the criminal justice system where Pasifika people are overrepresented. Pasifika peoples make up a large significant proportion of the population of Aotearoa New Zealand. We need a legal profession that is reflective of the population of the country. More Pasifika lawyers can help ensure that those involved in legal processes are engaged, understand the process, and feeling heard and understood. The impact of a Pasifika student with a law degree is enormous. A Pasifika student with a law degree can affect not only their own family, but their entire community, ultimately leading to a more inclusive Aotearoa New Zealand.

This project is also important because it will help us better understand how Pasifika law students come into law school, how they experience law school, and whether they are making the transition into the legal profession. Pasifika students leaving law school with a law degree can pursue many different careers. They could do policy work in government, practice as lawyers (even eventually becoming judges), become academics, or go into business. A law degree provides all sorts of skills, understandings and ways of thinking and reasoning about the world that can be translated into different settings.

a. Project Aims and Objectives

In late 2020, the Michael and Suzanne Borrin Foundation awarded a grant to VUW, under the leadership of Luamanuvao Dame Winnie Laban, Assistant Vice-Chancellor Pasifika. The grant was for a project titled *Equity, Belonging, Power/Authority – How can law, policy and practice support Pasifika law students – Improving Pasifika Legal Education Project*. The intended eventual outcome of this project is to increase the number of Pasifika in law programmes, the legal profession and leadership roles. To this end, the project brings together academics, students, graduates, legal practitioners and policy-makers across Aotearoa, to identify the barriers to Pasifika entering and succeeding in law schools and to recommend specific interventions for improved outcomes.



Launch of the Project - 31 Oct 2021

⁷ A Tongan proverb which uses the interlacing of pandanus fibres in making a mat to reflect the interconnections of blood and gender, rank and status, family histories and individual deeds that, over time, produce society. See Heather E. Young-Leslie, “...Like a mat being woven”, (2007) 3(5) Pacific Arts 115 at 115.

CHAPTER 1: Introduction – Preparing the Pandanus

The project's objectives are urgent and vital. Pasifika peoples are consistently underrepresented in law programmes in tertiary education institutions and the legal profession in this country. Pasifika makes up 8.1% of Aotearoa's population, but only around 7% of LLB graduates and 3% of the legal profession. The latest figures from the New Zealand Law Society indicate that 517 Pasifika lawyers were registered in 2021, a ratio of just one Pasifika lawyer for every 802 Pasifika people.⁸ The project aims to investigate the reasons for and solutions to this disparity, to ensure that legal education meets the needs of Pasifika students and that the legal profession reflects (and thus can adequately serve) Pasifika peoples in Aotearoa.

The aim of the project is twofold:

- To provide everyone working in the law space with some guidance on what adequate support for Pasifika law students might look like.
- To increase the number of Pasifika in the legal profession and facilitate Pasifika legal practitioners as leaders in the profession.

To these ends, the Project has engaged with all the law schools across Aotearoa, New Zealand, to supply qualitative and quantitative evidence evaluating interventions for Pasifika students who aspire to enter and successfully complete law programmes. That is, this research work has examined law student recruitment, retention and completion, and employment.

The project is premised on a Pasifika notion of *weaving* different strands of factors to create an accurate picture of the current engagement of Pasifika peoples within law schools. Only from this position can we develop appropriate strategies to achieve the above goals and aims.

b. Key Personnel

The Honourable Luamanuvao Dame Winnie Laban, DNZM, Assistant Vice-Chancellor Pasifika, has spearheaded the project. The principal researchers on the project are Dr Mele Tupou Vaitohi (Pasifika Law Research Fellow, VUW Faculty of Law; 1.0 FTE) and Mr Wiliame Gucake (Pasifika Law Research Assistant; 0.5 FTE).

A Project Committee supported the researchers. The committee consists of Hon Luamanuvao Dame Winnie Laban, Professor Mark Hickford (Pro Vice-Chancellor of Government, Law and Business at VUW), Ms Tupe Solomon-Tanoa'i (Michael and Suzanne Borrin Foundation) and Associate Professor Guy Fiti Sinclair (University of Auckland Law School). The Project Committee met regularly with the researchers, monitors the research progress, and provided input and guidance on research methodologies, literature review and the final report.

Two advisory committees also support the researchers: an Academic Advisory Panel and a Students and Law Practitioners Advisory Panel (*Komiti Poto*). Both advisory committees include representatives from all law schools in New Zealand, nominated by the respective Deans (see memberships attached as **Annexures B and C**). The advisory committees assist the project by liaising with and ensuring the various support of various stakeholders, reviewing the project's engagement and research plans, and reviewing the research findings.

⁸ James Barnett, Marianne Burt, Navneeth Nair, 'Snapshot of the Profession', (LawTalk, New Zealand Law Society, Wellington, 2021) <www.lawsociety.org.nz>.

c. Methodology

The project methodology has three main components: 1) a literature review, 2) *Talanoa*, and 3) statistical and other information gathered from law schools and the Ministry of Education.

The first stage of the research consisted of an extensive review of the scholarly literature relevant to the project's overall scope and objective. This review included a small body of literature relating to: the experiences of Pasifika law students in Aotearoa; a larger body of scholarship focusing on Pasifika students in university education more broadly; and scholarship addressing the tertiary education experiences of other indigenous and minority ethnic groups, both in Aotearoa New Zealand and overseas. This literature review illuminated several likely barriers to the success of Pasifika law students and law professionals. It indicated some possible institutional responses, offering insights and themes for further exploration in the *Talanoa*.

The second stage of this research took a qualitative approach that sought to gain a more in-depth understanding of the experiences and personal narratives of Pasifika law students and law practitioners/professionals through *Talanoa*. The *Talanoa* that happened through this project was the first of its kind and there was inherent value in bringing people together to share experiences. *Talanoa*, which means "to talk informally, to tell stories or relate experiences",⁹ is a well-established indigenous Pasifika research methodology. As implemented in the project, *Talanoa* is also a group encounter: a space created for people to tell about their past, issues, realities and aspirations and, using their cultural methodologies, produce a more authentic Pacific knowledge.¹⁰ Between December 2021 and October 2022, the research team conducted 31 *Talanoa* sessions, both via Zoom and in person (a schedule is attached as **Annexure D**). Of 130 participants in these *Talanoa* sessions, 60 were

students based in Dunedin, Christchurch, Wellington, Hamilton and Auckland. At the same time, 70 were law practitioners or professionals working in policy and closely associated with the legal profession, in courts, in academia, or in government entities. All participants in the *Talanoa* identified as Pasifika, with affiliations to the Cook Islands, Fiji, Kiribati, Niue, Samoa, Tokelau, Tuvalu and Tonga. Most of these *Talanoa* took place in groups or *fono*; where requested, the team also conducted individual *Talanoa*. The principal researchers were also able to *Talanoa* with selected faculty members from all the law schools in Aotearoa New Zealand.

The *Talanoa* focused on themes relating to the various stages of experience in legal education and the legal profession. Specifically, *Talanoa* participants were invited to share their experiences and reflections on: (1) entrance into law school; (2) retention and success of Pasifika students in law school; (3) entering the legal profession; and (4) supporting Pasifika lawyers to achieve excellence in the profession.

The third stage of the research involved gathering of statistical and other information from law schools and the Ministry of Education in Aotearoa, New Zealand.



Pasifika moot

⁹ Clerk M Churchward, *Tongan Dictionary* (Oxford University Press, London, 1959) at 447.

¹⁰ Timote Vaoileti & E C Vaoileti, "Cultural motivations for learning" (paper presented at the Inaugural Pacific Research: Education Symposium University of Waikato, Hamilton, 2003).

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d. Methodology and the Metaphor of Weaving

In the *Talanoa*, we were honoured to be in the position of listening to Pasifika law students’ and professionals’ stories and voices about their own lived experiences, which at times put them in vulnerable positions.¹¹ We also heard the participants echo our own experiences.

We thought carefully about how to best present our findings, since our ultimate aim is to honour those who participated in the research. We employ the metaphor of Pasifika ‘weaving’ within the methodology, in an analogy to how a group of Pasifika women gather and interlace distinct sets of strands at right angles to form a fine mat. Like these strands, the stories shared by the participants in the *Talanoa* are here woven together and form the fine mat of this project. This practice resonates well with a Māori proverbial saying ‘*Whiria te tāngata ka puta he oranga, whiria te mātauranga ka puta he tino rangatiratanga*’ meaning that weaving people together promotes well-being, weaving knowledge promotes excellence. This metaphor reflects the centrality of weaving within many Pasifika cultures.

In many Pasifika cultures, a pandanus mat, carefully crafted with golden strands, is a centrepiece of the home. It is both mundane in being used by all, and a status symbol, a form of wealth, as preciously guarded as it is finely woven. The weaving of the mat is a powerful metaphor that stretches across the Pacific. This project pulls together many strands, interweaving them lovingly and dutifully to create a beautiful *fala* (mat) that is useful not just for law schools, but for the legal profession and policy-makers.

The weaving process is used in this research to reflect how different strands are interwoven, with strenuous labour and care, to create a mat that embodies the different experiences of the participants in this research. The process of weaving a mat commences when the pandanus is harvested and prepared. Preparation of the pandanus is vital, for it will influence the mat’s value. After the pandanus is harvested, the spiny mid-ribs and spikey edges are removed from the leaves. The leaves are then rolled into bundles before being placed them in boiling water. This process will soften the pandanus. After boiling the leaves, they are laid out in the sun to be dried. Once, dried they are rolled into coils where individual leaves are retrieved to be scraped with a sharp shell to make them smoother, softer and manageable for the weavers.¹² The leaves are then divided into fine strips or strands ready to be woven. The weaver pulls long strands together and then builds upon it as more strands are added, with nimble fingers applying precisely the right amount of tension needed. Intricate locking methods are used to prevent the weave from spreading and ensure a neatly edged mat.

To understand the findings in its proper context, the next chapter provides a snapshot of who Pasifika are both in Aotearoa and the law.



Priscilla Agius, Toli Sagaga, Karen Sagaga

¹¹ Some participants commented that they did not want to remember some of these experiences. Listening to the experiences, some participants admitted to feeling like they were in a bad dream. Referring to *Talanoa* with LP1, 9 December 2021; *Talanoa* with LP2, 17 February 2022 and *Talanoa* with LP6, 14 April 2022.

¹² Linda Fordyce, *Pataka Exhibition: Baskets of Melanesia* (Pataka Museum of Arts and Cultures, 2013).

CHAPTER 2: Context – Stripping the Pandanus

Figure 1. Countries of the Pacific



a. Pasifika People in Aotearoa New Zealand

New Zealand has a large and growing Pasifika population. In the 2018 Census, there were 143,980 Pasifika children and young people in New Zealand.¹³ The Ministry of Education predicts that young Pasifika people will comprise one-fifth of the school-age population by 2050.¹⁴ However, Pasifika people frequently suffer from low socio-economic indicators.

The median annual income for Pasifika adults in the 2013 Census was \$19,700: almost a third (31 per cent) lower than the national median annual income of \$28,500.¹⁵ In 2019, there were 73,000 Pasifika people aged 15–24 years; of these, about 17 per cent were not engaged in employment, education, or training compared with 12 per cent overall for the 15 to 24-year-old population.¹⁶

13 Statistics New Zealand (2018), *Pacific peoples* <www.stats.govt.nz/tools/2018-census-ethnic-group-summaries/pacific-peoples>.

14 Ministry of Education *Pasifika Education Plan: Monitoring Report* (Education Counts, 2017).

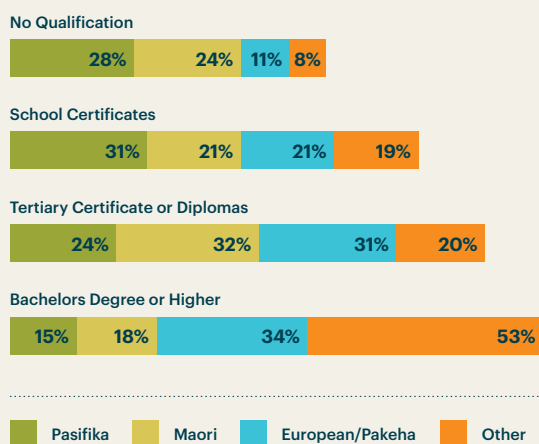
15 Statistics NZ: National Ethnic Population Projections: 2013(base) – 2038. <www.stats.govt.nz>.

16 Statistics New Zealand (2019), *Infoshare tables based on Household Labour Force Survey* – released on 6 November 2019.

CHAPTER 2: Context – Stripping the Pandanus

Pasifika peoples make up a diverse population. As shown in *Figure 1* above, these Pasifika peoples' origins include the Cook Islands, Fiji, Kiribati, Micronesian countries, Niue, Papua New Guinea, Samoa, Solomon Islands, Tokelau, Tonga, Tuvalu and Vanuatu. Samoans are the largest group and Tongans the fastest-growing group of Pasifika peoples in New Zealand.¹⁷ The majority of these people were born in New Zealand.¹⁸

Figure 2. Percentage of New Zealanders by highest qualification and ethnic group, 2020



There are significant economic and social influences on Pasifika families. The median annual income for Pasifika adults in the 2013 Census was \$19,700, almost one-third (31%) lower than the national median annual income of \$28,500.¹⁹ The median income of Pasifika adults rose to \$24,300 in 2018, but remained lower than the median income for Pākeha, Māori and Asian New Zealanders.²⁰ Poverty affects access to: transport and clothing costs; health costs such as nutrition and healthy homes; and access to educational resources such as books and digital technology.

¹⁷ Above, n14.

¹⁸ Ibid.

¹⁹ Above, n17.

²⁰ Above, n14.

At the same time, Pasifika are over-represented in the criminal justice system. Pasifika make up 12% of the prison population, despite being only 8% of the general population.²¹ These statistics reflect and compound the generally poor socio-economic positions occupied by Pasifika in New Zealand. Among other relevant statistics, Pasifika are over-represented in lower socio-economic statistics.²²

The proportion of young people who are not engaged in employment, education, or training (NEET) indicates youth disengagement. As of September 2019, there were about 73,000 Pasifika people aged 15–24 years; of these, about 17% were NEET, compared with 12% overall for the 15–24-year-old population.²³

The percentage of Pasifika young people aged 15–24 by highest qualification compared to other ethnic groups is shown in *Figure 2*.²⁴

The disparities shown in *Figure 2* reflect poorly on how well the schooling system is meeting the needs of many Pasifika people for access to education, qualification and job readiness. High school and tertiary education qualifications are associated with various social and economic wellbeing indicators, including improved labour-market opportunities, higher incomes and living standards, lower risk of long-term welfare dependence and improved health outcomes. Therefore, the highest qualification attainment disparities contribute to longer-term social and economic disadvantages in the labour market and elsewhere.

²¹ Department of Corrections "Prison facts and statistics – June 2021" (June 2021) Prison Statistics <www.corrections.govt.nz>.

²² Statistics New Zealand "Household Economic Survey, Year Ended June 2018" (June 2018) <<https://www.stats.govt.nz/information-releases/household-net-worth-statistics-year-ended-june-2018>> ; Pasifika Futures "Pasifika People in New Zealand: How Are We Doing?" (2017) 36 <http://pasifikafutures.co.nz/wp-content/uploads/2015/06/PF_HowAreWeDoing-RD2-WEB2.pdf> .

²³ Statistics New Zealand (2019), *Labour market statistics: September 2018 quarter*. Retrieved from <www.stats.govt.nz/information-releases/labour-market-statistics-september-2018-quarter>.

²⁴ Education Counts, *Tertiary Achievement and Attainment, Education attainment in the population*, <www.educationcounts.govt.nz/statistics/achievement-and-attainment>.

b. Pasifika in Law

Colonisation transplanted the English legal system into New Zealand. The legal profession was made up of predominantly lawyers from England. In 1861, New Zealand-based legal training began, and in 1869 the New Zealand Law Society was established.²⁵ The legal profession was monocultural, conservative, and an extension of the English law training system and the institutions of the courts. In the judiciary, only 3% of all judges are identified as Pasifika.²⁶ In 1897, the first person of Māori descent was admitted as a barrister and solicitor in New Zealand. The first person of Pasifika descent was admitted as a barrister and solicitor in New Zealand in 1936.²⁷ The first person of Pasifika descent was sworn in as a District Court judge in 2002. A timeline is outlined in *Figure 3* below.

Although there were appointments and admission to the law profession from other ethnic groups in New Zealand, Pasifika numbers have been persistently low, and they are grossly underrepresented in New Zealand's legal profession. Pasifika comprise 8.1% of Aotearoa's population, yet only around 3.3% of the legal practitioners. The latest figures from the Law Society show that 517 Pasifika lawyers were registered in 2021, a ratio of one Pasifika lawyer to every 802 Pasifika people. If professional representation were proportional to the population, there would be around 1,260 Pasifika lawyers in New Zealand.

As the timeline notes, every judge appointed of Pasifika descent has been to the District Court and, only in Auckland until recently. To date there has not been a Pasifika judge to sit in the senior courts (High Court, Court of Appeal or Supreme Court), and never been a Pasifika Queen's or King's Counsel, Attorney-General, Solicitor-General or Crown Solicitor. There have also been very few Pasifika partners of large law firms or in chief legal roles in Government. The lack of Pasifika in

legal leadership roles is both reflective of the barriers they face, and also a barrier in itself, as it makes it even more difficult for Pasifika to move into those spaces. However, these roles can have a significant impact on important decisions that affect Pasifika communities.

In the legal profession, progress from Pasifika peoples has been slow. In 1936, Olive Malienafau Nelson became the first person of Pasifika descent to graduate with a Bachelor of Laws and be admitted as a barrister and solicitor in New Zealand. Sixty-six years later, Judge A'e'au Semi Epati became the first person of Pasifika descent to be sworn in as a District Court Judge. The first Pasifika lawyer to be President of the New Zealand Law Society was Tiana Epati, in 2019. In 2022, Judge Ida Malosi was appointed as the first Head of Bench in Aotearoa. To date, there has not been a Pasifika Queens/King's Counsel.

Accordingly, it is crucial to recognise the specific and significant benefits that the participation of Pasifika lawyers will create. In the legislative design relating to principles of constitutional, administrative and public law, the incorporation of these Pasifika realities and the requirement for lawyers who are well-equipped to deal with cultural problems has been recognised. For example, under cl 7 of the Family Court (Supporting Children in Court) Legislation Bill, which requires that "When appointing a lawyer to represent a child, the court or Registrar must, so far as is reasonably practicable, appoint a lawyer who is, by reason of their personality, cultural background, training, and experience, suitably qualified to represent the child". The New Zealand Bill of Rights Act 1990 (NZBORA) review completed by Crown Law, which vets Bills for which the Ministry of Justice has done the policy work, discussed this issue about the right of freedom from discrimination.²⁸ In concluding that the Bill was not inconsistent with NZBORA, Crown Law made three points on cl 7:²⁹

²⁵ New Zealand Law Society "Lawyer ethnicity differs from New Zealand population" (3 August 2018), www.lawsociety.org.nz.

²⁶ Anusha Bradley "90 per cent of High Court, Court of Appeal judges Pākehā" (20 September 2021) Radio New Zealand <<https://www.rnz.co.nz>>.

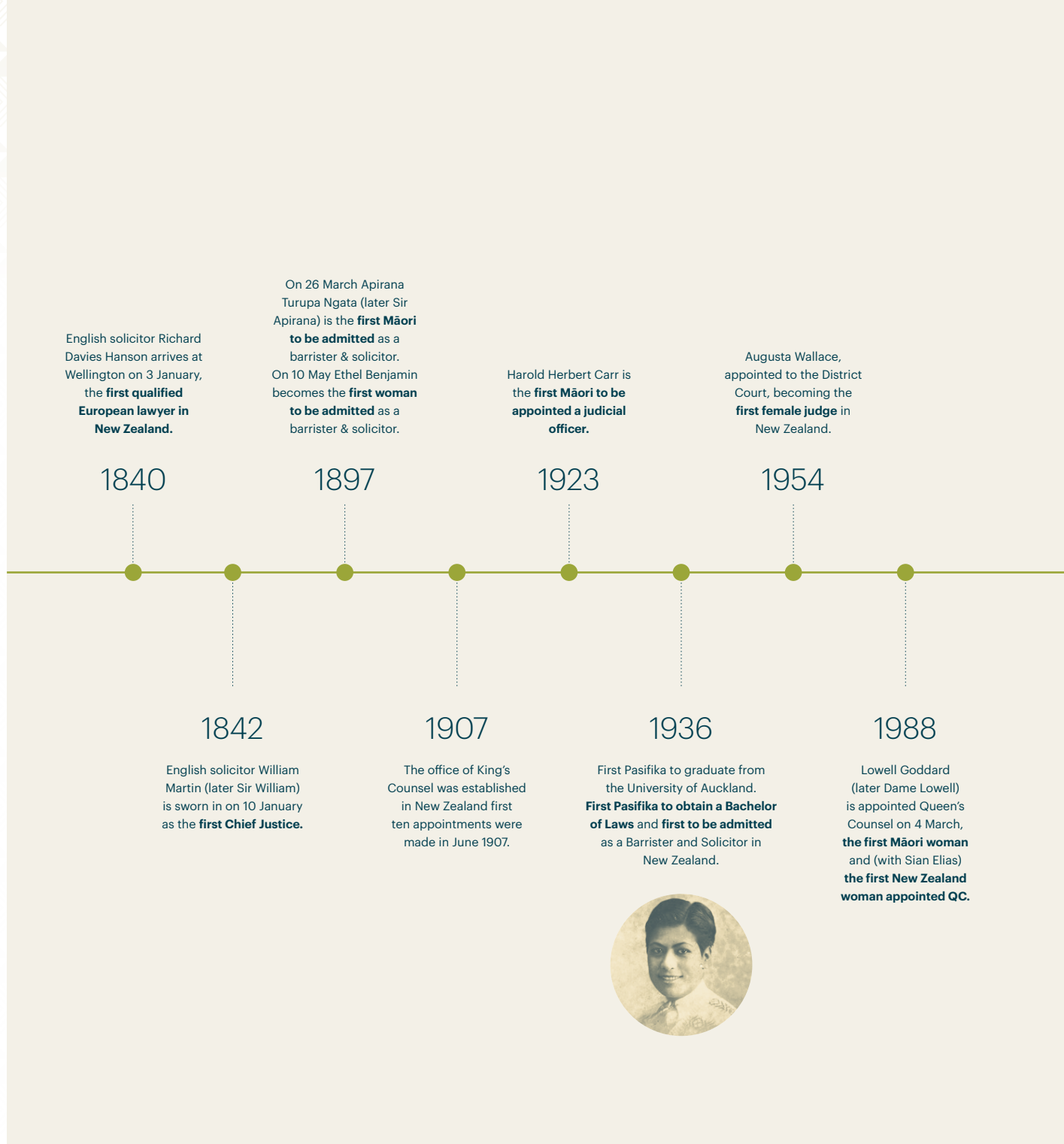
²⁷ New Zealand Law Society "Lawyer ethnicity differs from New Zealand population" (3 August 2018) <www.lawsociety.org.nz>.

²⁸ New Zealand Bill of Rights Act 1990, s 19.

²⁹ Attorney-General Family Court (Supporting Children in Court) Legislation Bill Consistency with New Zealand Bill of Rights Act 1990 (Section 7 Report, PCO 22604/4.0, Wellington, 17 July 2020).

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Figure 3. The New Zealand legal profession and Pasifika





A'e'au Semikueiva Epati is sworn in as a District Court Judge on 22 February 2002, the **first Pasifika Judge** to be appointed.



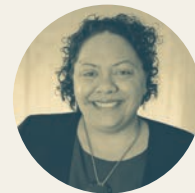
Ida Malosi is sworn in as a Family Court Judge on 24 September 2002, the **first female Pasifika judge**.



Lowell Goddard is sworn in as a High Court Judge in December, becoming the **first Māori appointed to the High Court bench**.



Tiana Epati becomes the **first Law Society President** of Pasifika Descent.



Sarah Eyre, **first Pasifika Chair of the Human Rights Review Tribunal**.

Judge Ida Malosi appointed Principal Youth Court Judge, **first Pasifika Head of Bench**.

1995

2002

2019

2022



2001

Pasifika Lawyers Association is founded, with Simativa Perese being its inaugural President (now Chief Justice of Samoa).



Dr Ajit Swaran Singh is sworn in as a District Court Judge on 4 November 2002, the **first Fijian-born-Indian Judge**.

2016

Mina Wharepouri sworn in as first Judge of Tongan descent, and first Pasifika judge 14 years after the appointment of Judge Malosi.

2016–2021

We note the appoint the following Pasifika District Court Judges: Judge Moala; Judge Ginnen; Judge Von Keisenberg; Judge Wallwork; and Judge Mika.

2021

Kylee Quince becomes Dean of AUT Law School, **first Māori to become Dean of a Law School**.

Michael Mika sworn in as a District Court Judge, based in Wellington, the **first Pasifika judge outside of Auckland**.

TODAY

Today there have been eight judges of Pasifika descent appointed in New Zealand. All have been appointed to the District Court. There still has never been any Pasifika appointed to the High Court, Court of Appeal or Supreme Court. There has also never been a Pasifika King's Counsel.

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1. “If one lawyer is appointed and the other is not, purely based on their cultural background, the lawyer not appointed may consider they have been disadvantaged... We consider that even if that were so, the limitation would be justified in order to facilitate the proper participation of children in Court proceedings”.
2. “Culture is expressed as a matter to take into account rather than a decisive factor”.
3. “In some cases the measure might not amount to discrimination at all by virtue of the positive discrimination provision in s 19(2) of NZBORA”.

Also, s 159 of the Oranga Tamariki Act 1989 contains the exact wording of cl 7. The provision has been on the statute book since 1989. The inclusion of c 17 was recommended by the Independent Panel examining the 2014 family justice reforms. These approaches underscore the value of the relationship between counsel and client, where trust and communication could be better fostered when there are Pasifika lawyers to serve Pasifika clients.

c. Pasifika Students and Academic Staff in Law Schools

The research project obtained strong support from all six law schools in New Zealand. The data gathered from the law schools was valuable because it permits a general view of the total number of Pasifika enrolments and graduates across New Zealand.



1. Numbers of Pasifika Law Students

In looking at the number of Pasifika students entering law school, the number may be limited by the lack of University Entrance achievement at lower decile schools. *Figure 4* shows the proportion of Pasifika students at each law school across time who attended Decile 1–5 schools. The numbers indicate there are very few Pasifika law students who attended Decile 1–5 schools. Therefore, the majority of Pasifika law students attended schools above Decile 5. Attending lower decile secondary schools could also limit the options of Pasifika students due to students’ low University Entrance attainment.

As shown in *Figure 4*, the law schools in Auckland (AUT and University of Auckland), University of Waikato and the University of Otago have a high proportion of Pasifika students from lower decile secondary schools. We can see the proportion of Pasifika students from lower decile schools attending law school in New Zealand is fairly low. For example, the University of Otago is 22.9% indicating that 77.1% of its Pasifika students attended schools above Decile 5.

Relatedly, it also shows that students from lower decile schools tend to travel out of region. The costs of travel and accommodation demonstrate the students stay near to home. To shed some light on the question of Pasifika students moving across regions, *Figure 5* shows the percentage of Pasifika students studying law who had just left school, were from schools ranked Decile 5 or below and were out of region (students who were studying in universities that required them most likely to move).

Berith Petaia, Amelia Knott,
Shania Foon

Figure 4. Proportion of Pasifika students at each law school from Decile 1-5 school, 2011–2022

	AUT	University of Auckland	University of Canterbury	University of Otago	University of Waikato	VUW	TOTAL
2011	4.3%	22.7%	8.3%	23.8%	19.4%	8.7%	19.2%
2012	6.7%	21.2%	13.3%	16.7%	17.5%	17.3%	18.5%
2013	14.3%	22.7%	12.5%	17.6%	15.9%	14.5%	19.2%
2014	15.1%	28.9%	8.3%	37.5%	17.4%	17.9%	24.2%
2015	13.8%	28.1%	17.2%	18.9%	23.2%	10.2%	22.2%
2016	21.1%	32.4%	22.2%	19.4%	19.8%	20.0%	25.7%
2017	27.3%	26.1%	20.0%	16.1%	20.8%	21.9%	24.4%
2018	21.4%	24.2%	9.1%	21.4%	13.6%	13.2%	20.2%
2019	16.5%	23.7%	9.7%	26.3%	20.0%	17.2%	20.0%
2020	13.1%	21.6%	9.7%	15.8%	18.8%	13.3%	17.2%
2021	16.8%	19.9%	5.7%	25.9%	9.6%	10.5%	16.7%
2022	19.3%	22.8%	17.8%	26.2%	12.4%	12.2%	19.5%
Total	17.7%	24.1%	13.0%	22.9%	17.0%	14.6%	20.2%

Figure 5 shows the percentage of Pasifika law students, from low decile schools who moved out of their region. It shows a low proportion of Pasifika law students (from low decile schools) moving out of Auckland areas (AUT and University of Auckland) and a high proportion to the University of Otago and the University of Waikato. The findings from the same data show many of the students from lower decile schools who travelled across regions had obtained scholarships.

Further, according to the data gathered from the and the six law schools in New Zealand and the Ministry of Education, New Zealand, the number of law students identified as Pasifika and enrolled has been slowly increasing since 2012. For instance, 710 Pasifika students enrolled in law in 2020, an increase from the 350 Pasifika law students recorded for 2012.



The expectant crowd at the Victoria University of Wellington Pasifika Graduation Celebration 2022

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Figure 5. Percentage of Pasifika law students who had just left school, from Decile 5 or below schools, and were out of region, 2011–2022

	AUT	University of Auckland	University of Canterbury	University of Otago	University of Waikato	VUW	TOTAL
2011	0.0%	3.7%	0.0%	100.0%	83.3%	75.0%	26.0%
2012	0.0%	2.1%	0.0%	100.0%	100.0%	100.0%	32.9%
2013	16.7%	3.8%	50.0%	100.0%	100.0%	100.0%	31.7%
2014	12.5%	4.2%	50.0%	66.7%	91.7%	80.0%	28.8%
2015	0.0%	3.0%	60.0%	85.7%	87.0%	66.7%	30.4%
2016	0.0%	1.3%	66.7%	50.0%	82.4%	58.3%	20.1%
2017	0.0%	2.9%	20.0%	100.0%	85.0%	71.4%	22.7%
2018	2.1%	7.5%	0.0%	83.3%	85.7%	57.1%	18.8%
2019	0.0%	7.2%	33.3%	80.0%	87.5%	40.0%	25.2%
2020	0.0%	7.9%	33.3%	83.3%	86.4%	50.0%	22.9%
2021	1.7%	3.6%	0.0%	100.0%	91.7%	60.0%	19.3%
2022	1.6%	3.0%	37.5%	100.0%	87.5%	58.3%	18.8%
Total	1.5%	4.2%	35.7%	85.9%	88.1%	67.3%	23.6%

Figure 6. Breakdown of Pasifika law students across Aotearoa, 2021

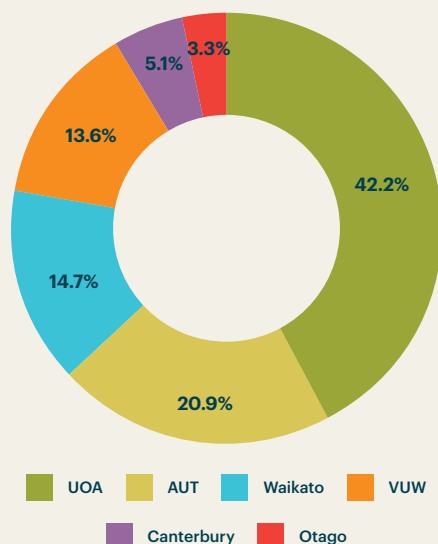


Figure 6 shows that an average of 42% of all Pasifika students enrolled in law schools in New Zealand in 2021 were at the University of Auckland followed by Auckland University of Technology (AUT) and Waikato with 21% and 15%, respectively. By contrast, comparatively few Pasifika students are undertaking law degrees in the South Island institutions (shown in Figure 8 below), which is not surprising given the smaller Pasifika population in that region. This makes access to university easier and more affordable when savings are made in lodging and other living expenses (shown in Figures 4 and Figure 5). AUT is relatively new compared to the other law schools, but the level of enrolment may reflect AUT's commencement of law studies being offered at the South Auckland campus in 2016, which is in close proximity to large Pasifika communities. This was mentioned in the *Talanoa* data by students when asked about why they chose AUT. This success at attracting Pasifika students is striking.

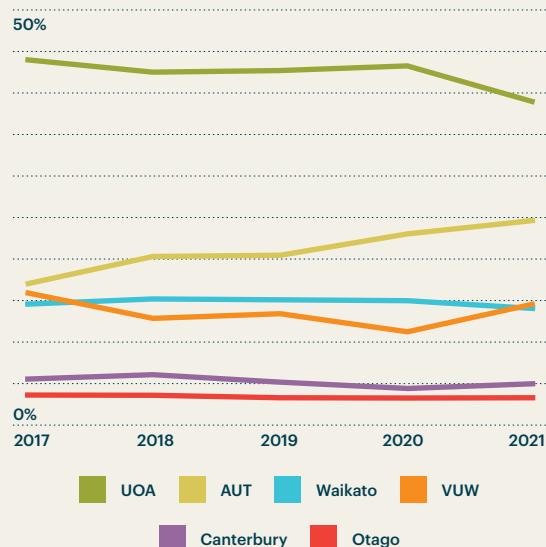
The University of Auckland, AUT, VUW and Waikato all have at least 100 Pasifika students studying at their institutions. This is important because, as noted in the *Talanoa* findings, support offered by fellow Pasifika students is very useful in helping Pasifika students complete their degrees.³⁰ The *Talanoa* data indicate strongly that a sizeable Pasifika cohort can enhance Pasifika students' sense of Belonging, reduce isolation and alienation, and also increase the non-Pasifika student and staff awareness of Pasifika issues, contributing to culturally safe classrooms.³¹ A larger number of Pasifika students may therefore lead to a greater completion rate.

Between 2017 and 2018, the AUT Pasifika cohort grew, while there was a corresponding drop in the University of Auckland figures, as indicated in *Figure 7*, which shows the percentage of Pasifika law students enrolled in the law schools in 2017–2021 as recorded by individual law school in New Zealand.



Admission of Elisapeta Taukolo to the bar

Figure 7. Percentage of Pasifika law students enrolled in the six law schools in NZ, 2017–2021



However, the actual numbers of Pasifika students in each institution over the period, 2011–2021 is shown in *Figure 8* below.

These figures can be broken down further to show a spread of Pasifika enrolled in undergraduate and postgraduate degrees. The table below (*Figure 9*) shows the number of Pasifika students attending law schools in New Zealand in 2020.

³⁰ Talanoa with LP 3, 6 April 2022; Talanoa with LP 4, 7 April 2022; Talanoa with LP 5, 12 April 2022; Talanoa with LP 6, 14 April 2022; Talanoa with LP 7, 20 April 2022; Talanoa with LP 8, 21 April 2022 and Talanoa with LP 9, 3 May 2022.

³¹ Talanoa with LP 1, 9 December 2021; Talanoa with LP 2, 17 February 2022; Talanoa with PS 1, 3 March 2022; Talanoa with PS 2, 8 March 2022; Talanoa with PS 5, 23 March 2022; Talanoa with PS 7, 29 March 2022 and Talanoa with PS 8, 30 March 2022.

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Figure 8. Numbers of Pasifika students enrolled in the six law schools, 2011–2021³²

Year	AUT	University of Auckland	University of Canterbury	University of Otago	University of Waikato	VUW	Total
2011	25	135	10	45	50	95	360
2012	30	105	10	55	55	95	350
2013	45	110	10	40	65	95	365
2014	60	110	15	50	60	95	390
2015	70	100	15	55	80	105	425
2016	120	115	20	60	70	105	490
2017	150	135	20	50	85	115	555
2018	190	115	40	60	95	110	610
2019	205	110	40	65	105	125	650
2020	245	140	40	70	100	115	710
2021	285	155	50	90	120	160	860

Figure 9. Number of Pasifika students enrolled in NZ legal education, 2020³³

University	Number of students who identify as Pasifika enrolled				Total
	LLB ³⁴	LLB Hons	LLM/Postgraduate	PhD	
North Island					
AUT	222	–	–	–	222
University of Auckland	474	7	17	1	499
University of Waikato	132	6	8	2	148
VUW	107	1	5	–	113
South Island					
University of Canterbury	39	–	–	–	39
University of Otago	31	–	–	–	31

Figure 9 shows that in 2020, 96% of all Pasifika students attending law schools are in the undergraduate cohort only, 3% in Masters or postgraduate law programmes and less than 1% in PhD programmes. According to Ministry of Education data, in 2020, a total of 5,265 people were enrolled in PhD programmes

across all fields in New Zealand, and 15,660 were undertaking Masters degrees.³⁵ By contrast, only 260 Pasifika students were enrolled in PhD programmes and 1,000 Pasifika students enrolled in a Masters programme across all fields of study.³⁶ Not all of these students were undertaking a law degree, but these numbers highlight the fact that very few Pasifika students are enrolled in postgraduate courses generally.

³² These numbers were gathered from the Ministry of Education, New Zealand. Note that the data in this table is for “Laws degree” and they have been rounded to the nearest 5 for privacy reasons. Also note that there may be some lag between initial enrolment and completion for students, as law qualifications span over several years.

³³ Some of the data shown are not a ‘unique count’, as one student may be enrolled in more than one stage of their law degree, so they may be counted twice on this table. The data in Figure 9 is sourced from the Tertiary Education Commission’s Nga Kete portal (accessed 18 July 2022). Some data is suppressed within this portal for privacy reasons.

³⁴ These figures include Year 1, so it is worth noting that there is a big drop-off in numbers between Year 1 and Year 2, both in the Pasifika cohort and across the board.

³⁵ Ministry of Education, “Tertiary Participation” (2022) Education Counts <

³⁶ Ibid.

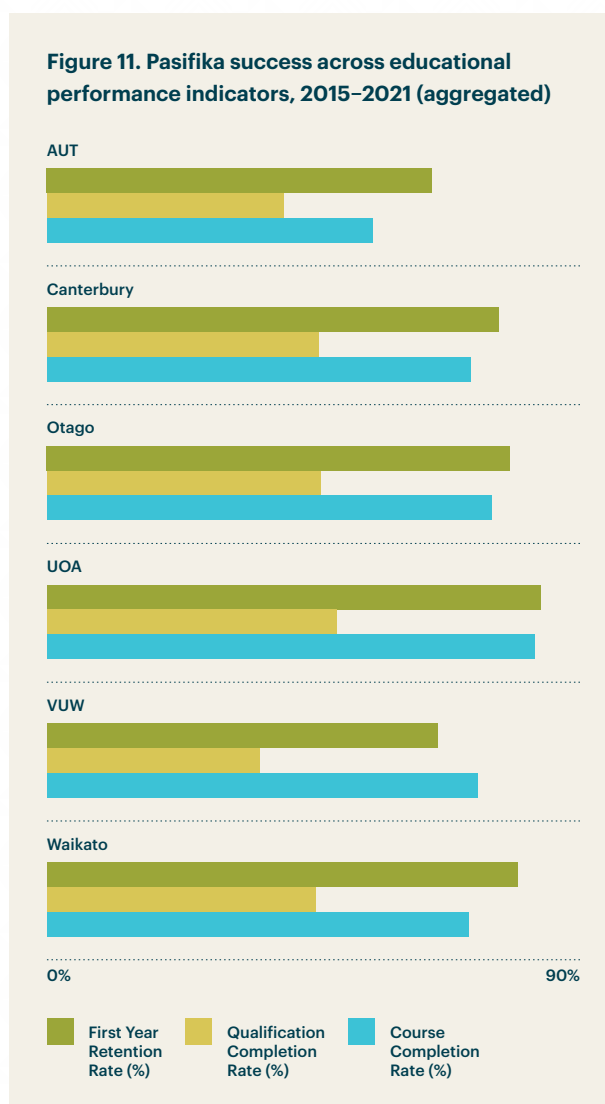
Figure 10. Education Performance Indicators (EPis) for Pasifika students in law programmes at Bachelors degree level, 2015–2021 (aggregated)

University	Course Completion	Qualification Completion Rate	First-Year Retention Rate
North Island			
AUT	54.9%	40.1%	65.1%
University of Auckland	82.4%	49.0%	83.4%
University of Waikato	71.2%	45.3%	79.5%
VUW	72.8%	35.9%	66.1%
South Island			
University of Canterbury	71.5%	45.8%	76.3%
University of Otago	75.2%	46.2%	78.3%

If we delve further, we can consider the rates of course completion, qualification completion and first-year retention rates. *Figure 10* shows the Pasifika qualification completion rate of less than 50% for all law schools, with the highest of 49% from the University of Auckland and the lowest from VUW with only 35.9%. The retention rate for first-year students is relatively high at the University of Auckland and University of Waikato compared to the AUT and VUW. The University of Auckland and the University of Waikato have programmes in place to support Pasifika students, which could contribute to their higher retention rate (refer to *Figure 17*).

Both *Figure 10* and *Figure 11* provide a snapshot of this data using those Educational Performance Indicator (EPI) rates between 2015–2021.³⁷

Figure 11. Pasifika success across educational performance indicators, 2015–2021 (aggregated)



³⁷ Above n35.

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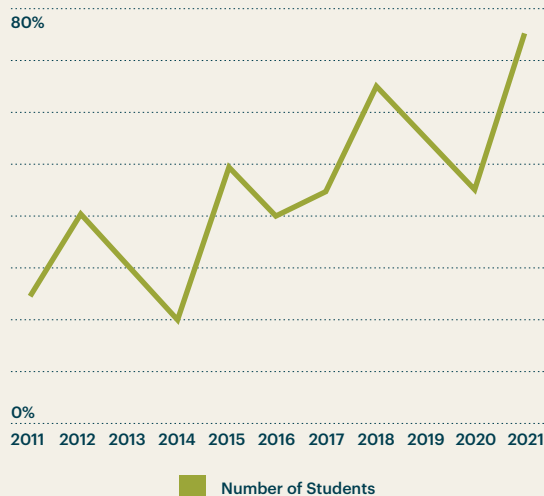
To summarise the information above, the following points are immediately apparent from these figures:

- i. Pasifika students are enrolled at all of the law schools in New Zealand. However, the University of Auckland and AUT, both in Auckland, stand out as enrolling a large majority of Pasifika law students.
- ii. The University of Auckland, AUT, VUW and the University of Waikato all have at least 100 Pasifika students studying at their institutions. These figures are important because, as noted in the *Talanoa* findings, the support offered by fellow Pasifika students is instrumental in helping them complete their degrees.³⁸ The *Talanoa* data strongly indicates that a sizeable Pasifika cohort can enhance Pasifika students' sense of Belonging, reduce isolation and alienation, and increase the non-Pasifika student and staff awareness of Pasifika issues, contributing to culturally safe classrooms.³⁹ A more significant number of Pasifika students may lead to a greater completion rate.
- iii. Although Pasifika people are studying law at all law schools across the country, four of the law schools (University of Auckland, AUT, and the Universities of Waikato and Canterbury), have a decreasing number of enrolments since 2020 compared to VUW and Otago University. At the latter universities, the number of Pasifika students undertaking LLB degrees is increasing, as shown in *Figure 11*. It should be noted that this is only a two-year period affected by the COVID-19 pandemic.

To the above picture, we colour in further data about the rates of Pasifika graduates in legal education below.

2. Numbers of Pasifika Law Graduates

Figure 12. Law graduates for Pacific peoples, 2011–2021



The data shows that more Pasifika are enrolling in law school but are underrepresented in graduation statistics. According to Ministry of Education figures,⁴⁰ in 2017 about 6.8% of LLB graduates were Pasifika. In 2019, the figure was 7.1%.

The aggregate numbers in *Figure 12* show that the number of Pasifika students in law has been fluctuating since 2011, but increasing over time. This finding attests to the law schools' efforts to support Pasifika students to completion. However, it should be noted that graduation numbers are considerably below population parity and the need faced by Pasifika people, such as the Pasifika people in the criminal justice system. In 2018, Pasifika people made up 12% of the prison population despite being only 8% of the general population.⁴¹

³⁸ Talanoa with LP 3, 6 April 2022; Talanoa with LP 4, 7 April 2022; Talanoa with LP 5, 12 April 2022; Talanoa with LP 6, 14 April 2022; Talanoa with LP 7, 20 April 2022; Talanoa with LP 8, 21 April 2022 and Talanoa with LP 9, 3 May 2022.

³⁹ Talanoa with LP 1, 9 December 2021; Talanoa with LP 2, 17 February 2022; Talanoa with PS 1, 3 March 2022; Talanoa with PS 2, 8 March 2022; Talanoa with PS 5, 23 March 2022; Talanoa with PS 7, 29 March 2022 and Talanoa with PS 8, 30 March 2022.

⁴⁰ Above n35.

⁴¹ Department of Corrections "Prison facts and statistics – June 2021" (June 2021) Prison Statistics <www.corrections.govt.nz>.

Figure 13. Pasifika graduates from law schools⁴²

	AUT	University of Auckland	University of Canterbury	University of Otago	University of Waikato	VUW	TOTAL
2017	5	26	2*	6	13	7	59
2018	11	28	7	6	16	3	71
2019	11	20	5	9	21	10	76
2020	7	24	2*	2*	16	9	60
Annual Average (%)	15%	42%	7%	10%	28%	13%	

* These are average numbers as the information provided was <5.

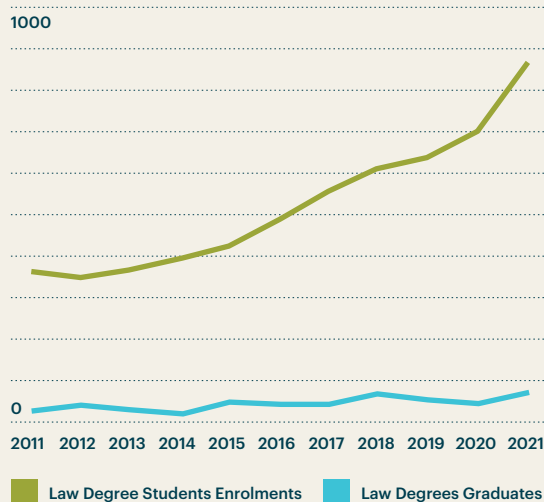
The University of Auckland has the highest number of Pasifika students who graduated with their LLB degree in 2020.

From 2017 to 2020, data gathered from each university shows that the highest percentage of law graduates were from the University of Auckland followed by University of Waikato, which is consistent with the higher number of enrolments in those universities. It is important to note, however, that the average annual percentage of law graduates from VUW (13%) and the University of Otago (10%) are relatively high when their number of enrolments is compared to that at AUT (15%).

The statistics in *Figure 14* show fewer Pasifika students completed a Bachelors degree in law compared to the Pasifika population and the number of Pasifika students who enrolled between 2011–2021. It shows a significant gap between the number of Pasifika enrolment and those who completed the law programmes. It also suggests that attrition is an issue, as shown in *Figure 15*, for the number of Pasifika PhD graduates in law at each law school between 2017–2020.

Although there are signs of increasing numbers of Pasifika law undergraduates, the situation at the postgraduate level is concerning. Between 2017–2020, only one Pasifika law graduate graduated with a PhD in New Zealand. It is difficult to be appointed as an academic without holding a PhD. These figures help explain the dearth of Pasifika legal academics.

Figure 14. Pasifika students in NZ who enrolled and completed LLB degree, 2011–2021



⁴² Data provided directly by AUT; University of Auckland; University of Canterbury; University of Otago; University of Waikato and Victoria University of Wellington.

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Figure 15. Number of Pasifika PhD law graduates, 2017–2020

University	Number of PhD graduates who identify as Pasifika ⁴³				Total
	2017	2018	2019	2020	
AUT	-	-	-	-	-
University of Auckland	-	-	-	-	-
University of Waikato	-	-	-	-	-
VUW	-	-	-	-	-
University of Canterbury	-	-	-	-	-
University of Otago	-	-	-	1	1

Most law schools make concerted efforts to improve these statistics through a raft of interventions to support Pasifika, as discussed in the next section.

3. Cross-University and Faculty Services, Programmes and Initiatives to Support Pasifika Law Students

The support of the Deans of the six law schools in New Zealand to this project signifies that the law schools are conscious of the need to encourage Pasifika students to undertake legal education. Almost every law school

reported that they offer targeted admission pathways and all have support programmes for Pasifika students. These programmes are outlined in *Figure 16* below.

43 This data was sourced directly from individual law schools and from the information available on their websites.



Pasifika law students listening to feedback from the judges at the student moot competition.

Figure 16. Targeted admission and support system

AUT	Direct entry. A Pasifika student who completes Part I papers with at least a B grade average in the compulsory law papers will be offered a place in Part II. Other students may be considered on a case-by-case basis.
University of Auckland	<p>Undergraduate Targeted Admission Schemes (UTAS) is one of the university's initiatives to meet its responsibilities under the Treaty of Waitangi and to achieve equity outcomes in line with its Equity Policy, procedures and strategic objectives. The Pasifika student cohort is one of the minority groups eligible under this programme.</p> <p>To be eligible for consideration under the UTAS (Moana Oceania), a student must comply with all the administrative requirements, and the faculty must approve the application.</p> <p>As at 2022, the university offers 37 places for entry into Part 2 under the UTAS (Pasifika). The Law Faculty provides the following support for Pasifika students:</p> <ul style="list-style-type: none"> • a Pasifika academic and support advisor who provides academic and cultural support from enrolment and assignments to advice on choices after an LLB • Pasifika Academic Support Strategies, which help schemes to foster and advance Pasifika achievement such as <i>Talanoa</i> sessions • Pasifika career models to inspire students.
University of Canterbury	For Pasifika students, a discretionary second-year entry is currently being investigated and evaluated (as at 2022).
University of Otago	The Law Admissions Committee determines admission to second-year law. There are two categories for admission – standard entry and alternative entry. For the alternative entry category, candidates can only be considered by virtue of their Māori descent. Pasifika students are only considered for the standard admission category.
University of Waikato	Direct entry schemes. No limitation of entry from first year to second year.
VUW	<p>The Law Faculty oversees an admissions programme intended to ensure increased representation of Māori and Pasifika students in the law programme.</p> <p>Since 2020, the targeted Admissions Process for Pasifika – more recently renamed the Targeted Admissions for Pasifika Achievement (TAPA) – aims to improve the number of Pasifika students who transition from first to second-year law. Five percent of available places at 200-level law are reserved for Pasifika students applying under the TAPA. Students who wish to be considered under this process will indicate so in their enrolment application or notify the faculty.</p> <p>Applicants must have passed all prerequisite courses and be interviewed by a panel typically comprising members of the Pasifika community, the Law Faculty and Pasifika legal practitioners. TAPA admissions can overlap with the distinct Māori Admissions Process for Māori taura, given that approximately 22% of the taura identify as both Māori and Pasifika.</p> <p>The support given to the students who are in these programmes includes:</p> <ul style="list-style-type: none"> • regularly scheduled meetings with the Pasifika Engagement Advisor • additional workshops designed to assist Pasifika students with their study skills, time management and learning mindset • support from academics who attend these additional workshops.

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It is important to note that all law schools have some measures in place to support Pasifika students. However, some law schools have shifted from a specific Faculty initiative to cross-University programmes and initiatives. For instance, The Review of Māori and Pasifika interventions for students in 2019, resulted in VUW's transitioning from Faculty-based support (with its own resourcing exclusively) to a centralised service provision model for Māori and Pasifika law students. It also resulted in splitting the combined services and establishing a stand-alone Māori Awhina Programme at the Marae and the establishment of a Pasifika Student Success team within the Office of Assistant Vice-Chancellor (Pasifika). The centralised model aims to foster a more coherent and cohesive delivery of culturally responsive support services to Māori and Pasifika students, with more clear and more strategically aligned reporting lines. This, in turn, will lead to better outcomes for Māori students and Pasifika students, in terms of a transition to university, progression and academic success as Māori and Pasifika people.⁴⁴ This transition was premised on a factor that a range of Faculties had not been able to devote resources to the creation of Engagement Advisor roles leading to variability in support levels. Now, VUW has an embedded model of support with a Pasifika Student Success team that focuses on improving Pasifika student enrolment, retention, and completion through direct support to students in academic, pastoral support, and working with faculties directly to deliver the best possible outcomes for Pasifika students at VUW. In terms of human resources, there are also two roles (Māori Engagement Advisor and Pasifika Engagement Advisor) reporting centrally to Māori Student Support and Pasifika Student Success, respectively. Even though these offices are based at the University's Kelburn campus, individual support positions are co-located at the Pipitea campus for the Faculty of Law.

In regard to resources, a given Faculty's annual net surplus, which is transferred to the central University after accounting for Faculty overheads, is intended to fund the support services for Māori and Pasifika students, along with the other central services that a Faculty receives (including, without limitation, to information technology, financial service, human resources advisory assistance, Development Office assistance, and facilities and property services). The services are often distributed and there is no service level agreement. Further, the Faculty of Law established a Student Success Coordinator position as an initiative in 2017 to assist students' access to appropriate support services and to monitor academic progression. This role currently sits within the Faculty of Law Student and Academic Services team.

The VUW's centralised system and its structures like the Pasifika Student Success team will be very helpful in relation to the way law schools in New Zealand consider and apply the newly published The Education (Pastoral Care of Tertiary and International Learners) Code of Practice 2021,⁴⁵

However, in terms of particular systems *Figure 17* provides a summary of the measures and initiatives provided by individual law school in New Zealand to support the Pasifika students,



Pacific Law Students Association, Waikato University

44 Faculty of Law, Te Herenga Waka – Victoria University of Wellington.

45 New Zealand Qualification Authority, <<https://www.nzqa.govt.nz/providers-partners/tertiary-and-international-learners-code/>>.

Figure 17. Measures taken by law schools in New Zealand to support Pasifika law students

AUT	<p>The support for Pasifika students at AUT School of Law are:</p> <ol style="list-style-type: none">1. An Associate Head of School (Māori and Pacific Advancement) who has an oversight responsibility for academic support, planning and tracking of student achievement. The Associate Head of School meets with students regularly and as required.2. Oceania Leadership Network Navigators – the School of Law has two dedicated navigators for Pacific students, who provide out of class support, mentoring and study skills.3. There is some Faculty support for Equity Success initiatives which includes funding for events.
University of Auckland	<p>Measures taken by the Auckland School of Law are:</p> <ol style="list-style-type: none">1. The Law School has longstanding support programmes for Pasifika students – Pacific Academic Support Strategies (PASS) programme. It has recently been named the Moana Oceania Academic Initiative. This programme offers additional support for Part I, II and III compulsory courses, including weekly or fortnightly tutorials, intensive content and skills-based workshops, and pre-exam study retreats, as well as study spaces for Pasifika students.2. The tutorials are run in small groups, in a culturally safe manner and environment, specifically designed by Pasifika support staff for Pasifika students. It should be noted that these support programmes are not exclusively for Pasifika admitted under the targeted admission schemes but are also utilised by many Pasifika students who gain admission through general entry.3. The Law School has an Associate Dean (Pasifika) who is part of the leadership team at the Law School and is also leading the support programmes for the Pasifika student body while contributing to the high-quality research and teaching.4. The Law School also has a dedicated Student Advisor Pacific, an Academic Skills Tutor whose responsibilities include academic and pastoral support for Part I students.5. Pasifika students are also encouraged to strive to achieve admission to honours at Part II student events. These events include Part II Orientations run specifically for Pasifika students, one-on-one meetings with academic and mentoring staff from each of the Moana-Oceania programmes, assessment and exam workshops and social and cultural events. Students are advised that they can book a meeting with the school's dedicated academic support staff at any point to discuss honours eligibility.6. Support and encouragement are also given to Part I students through the mentoring staff for Pasifika students.7. Those admitted to honours are monitored closely to ensure they are retained in the honours programme. There is also a 'Honours Clubs' for both Māori and Pasifika honours students. For example, Moana Oceania has been running mini writing retreats for Pasifika honours students, and successfully held these online during the COVID campus closures.

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University of Canterbury

The support for Pasifika students at School of Law, University of Canterbury are:

1. Vulnerable students early alert and progress follow-up for assistance and retention (administered by dedicated student advisor in the Law School, also provided by online ACE system university-wide).
2. Vaka Moana which is a dedicated LAWS 101 tutorial group for Pasifika student, to promote cohorting.
3. Financial and pastoral support of Pasifika Law Students Society (PLSS).
4. Membership of Faculty by PLSS.
5. Pacific Academic Lead is a member of Faculty.
6. LawMe (Pasifika involvement in training of mentors and dedicated mentors being investigated).
7. Ongoing engagement with Pasifika Development team, especially in relation to new courses.
8. Staff encouraged to attend Pasifika Staff Development courses.
9. Staff attend Pasifika Ceremonies at the University, including Pasifika Welcome days.
10. Attendance and support of Pasifika Graduation.
11. Support and provision of two special Pasifika Achievers Awards, for best First year and best Continuing student.
12. Student progress – Dean exercises discretions generously.
13. Staff members mentoring best Pasifika students to aim for post-grad and ongoing promotion of possible academic career.
14. Dean’s Letter for top 3 Pasifika students.
15. Working with Crown Law to provide a prize for best Pasifika student in a criminal law course.
16. The Law School hosted the 8th Pacific Law and Culture Conference, on 2 – 4 July 2018. The aim of this event was to increase understanding of Pacific legal issues and to strengthen relationships between Pacific legal scholars and students. Canterbury Law School Pasifika students engaged with and helped run the event.
17. Ongoing development of targeting for Pasifika staff and student retention.
18. Honours: Work to encourage Pasifika students into the LLB(Honours)programme has begun. The new honours programme is highly supportive generally – particularly because LAWS 410, the research and writing honours paper, is now entirely lecture-based. The course includes a session on Māori and indigenous research, and the supervised research part of the programme could now be taken entirely within this approach/methodology. Entry into honours is based on LAWS200 marks, therefore the support noted above for First and Second year students assists Pasifika students into Honours. The honours co-ordinator also checks whether any Pasifika students are included in the list of high achievers who do not make the first cut into the honours programme (limited to 25), to determine whether discretionary entry is justified.

University of Otago

The support for Pasifika students at the University of Otago, School of Law are:

1. At First Year level, there are additional tutorials (funded partially by the University and partially by the Faculty) for all Māori and Pasifika students. In addition, through the Pacific Islands Students Association (PILSA), the Faculty supports students, financially and in other ways, welcome events, study nights, mentoring programmes and other initiatives proposed by students to meet student needs.
2. At Second Year level, the support is similar to that in first year, a specific tutorial programme and support for a number of initiatives initiated by students.
3. There is no specific engagement with Honours Students, although it is noted that the current process for selection and application is under review.
4. Faculty support and engagement is further facilitated by liaison academic staff: Alex Latu with PILSA.

University of Waikato

The Faculty employs a Pacific Mentor for the Pasifika students. The Faculty has also recently established a new leadership position of the Convenor of Pacific Engagement for student support and pastoral care for our Pacific student cohort.

The Pacific Mentor has the responsibility for the following:

1. Help with academic issues that Pasifika law students may have including issues with enrolment procedures and enrolment options, lecturers, courses, assignments, tests, exams, legal writing difficulties, reading difficulties and study difficulties and any other academic support.
2. Organise extra tutorials, workshops. Works with academic and general staff of Faculty of Law in providing a supportive environment for Pasifika law students.
3. Publicise and promote the services of the Pasifika Mentor and other support services on campus to Pasifika law students.
4. Develop external networks with private, public and other organisations and individuals that create employment opportunities for Pasifika law graduates.
5. Develop and administer initiatives designed to maximise opportunities for Pasifika students in Faculty of Law to attain their degrees.
6. Assist with marketing and recruitment initiatives targeting Pasifika school leavers.
7. Distribute scholarship/grant information relevant to Pasifika law students.

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VUW

In terms of particular systems that the Faculty of Law has in place to support Pasifika students, VUW has the following:

1. First, VUW support MPI tutorials, which are designed to foster different approaches to learning than may otherwise be developed in a mainstream setting.
2. A staff member who is in charge of the MPI programme, works hard to ensure that the students in this programme are given the support they need to achieve excellent results.
3. The Faculty also prioritises those who can demonstrate cultural competencies important to the MPI programme for the MPI tutor roles. It should be noted that working as a tutor gives students the opportunity to forge relationships with academics which may lead to better academic outcomes as well as future employment opportunities.
4. Law school partners with the University-level Student Learning services to develop study skills, time management, goal setting and other academic skills in LAWS 121 MPI tutorials, LAW 121 is the law and society or legal system element of the first-year open-entry cohort.
5. The course coordinators have additional meetings with MPI tutors to develop material specific for the MPI tutorials.
6. There is also a Mentoring/Buddy system that has been developed for Pasifika students. Students who wish to have a more experienced MPI student as a mentor are assigned one on request. This intervention is designed to connect younger students with those who may bring them into the scholarly community, provide helpful advice and sometimes provide limited academic assistance (for example, proof-reading).

The current mentoring programmes on offer are as follows:

- a. Pasifika Law Students' Society or PLSS mentoring;
 - b. Pasifika Student Success or PSS mentoring;
 - c. Dentons Kensington Swan mentoring (not MPI specific);
 - d. Pasifika Lawyers' Association mentoring and Te Hunga Roia Māori Mentoring;
 - e. Young Lawyers' Committee Bridging the Gap Mentoring (not MPI specific).
7. Seats on important governance and policy-setting committees – each Pasifika Law Students' Society and the Pasifika Student Success team have seats at the Law Learning and Teaching Committee's meetings and at the Faculty Board. The Faculty Board is the apex governance committee for the Faculty and a permanent committee of the University-level Academic Board (referred to as the 'academic committee' in the Education and Training Act 2020 (refer to clause 18(2) of Schedule 11 of the statute). The Faculty is then able to be held accountable for their decisions and they can draw upon the experience/knowledge of those who understand the perspective of our MPI students. As student organisations, the Pasifika Law Students' Society each have a vote under the Faculty Board's terms of reference. They have contributed voting support to critical motions supporting initiatives regarding Pasifika student populations in the law programme, including recent changes in October 2019 in expectations concerning LAW 121 (which has led to a change in pedagogical practices and the composition of the teaching team).

8. Staff within the Faculty of Law are good at recognising where they need to step back and allow someone else to take over. For example, academics and professional staff alike can refer MPI students for counselling where appropriate and there are spaces reserved for MPI students in these cases.
9. The Faculty of Law has several academics dedicated to supporting MPI students. These academics volunteer time on weekends and after hours to discuss/workshop important issues relating to MPI achievement.
10. The Faculty of Law reserves a few spots in the Honours programme for students who did not meet the requirements based on their 200-level marks but should be considered the following year for late entry. While these are not exclusively held for MPI students, MPI students are more regularly being sponsored by academics for entry into the programme in this way.
11. Several of the MPI students may be approached by members of the Faculty and encouraged to apply for tutor roles.
12. The head of the Honours programme develops a relationship with the Pasifika Student Success teams and is always asking for names of students who might be encouraged to strive towards entry into the Honours programme. This is being undertaken as part of a collaborative partnership with the relevant Pasifika Engagement Advisor. Academics will often approach both these individual officials in the Faculty for names of students who might be interested in being involved with research projects. This means some of our younger Pasifika students can be exposed to real research work early on in their studies.

It is difficult to determine the impact of these admissions pathways and measures because of the multifaceted issues of inequity they attempt to address. However, we recognise that the University of Auckland has employed targeted admissions for Pasifika since 1988,⁴⁶ making it the first university to use this admission process in New Zealand. The targeted admission pathways, together with the complementary support services, is likely to have supported the University of Auckland to produce the highest EPIs as set out in *Figure 10*. However, an influx of Pasifika law students would ideally be guided by Pasifika role models in the law faculties. We consider those numbers next.

4. Numbers of Pasifika Academic Staff

Pasifika peoples are underrepresented at academic levels in New Zealand universities, especially in law. As of mid-2022, there are 17 law academics of Pasifika descent in academic positions across law schools in New Zealand and the majority are in junior positions, as shown in *Figure 18*.

⁴⁶ Mara Kawehiwehi Hosoda "Optimising the New Zealand Law School Experience for Pacific Lawyers"

(PhD Thesis, University of Otago, 2015), at 151.

CHAPTER 2: Context – Stripping the Pandanus

Figure 18. Pasifika people in legal academia

University	Position	Appointment Type
AUT	Lecturer	Permanent
	Lecturer	Permanent
University of Auckland	Associate Professor, Associate Dean (Pasifika)	Permanent
	Lecturer	Permanent
	Pasifika Teaching Fellow PTF FALOU	Fixed-term
	Research Fellow	Fixed-term
	Graduate Teaching Assistant	Contracted on a course-by-course basis
University of Canterbury	–	–
University of Otago	Professor	Permanent
	Lecturer	Permanent
University of Waikato	Assistant Vice Chancellor Pacific	Permanent
	Lecturer	Permanent
VUW	Senior Lecturer	Permanent
	Senior Lecturer	Permanent
	Senior Lecturer	Permanent
	Research Assistant	Fixed-term
	Teaching Fellow	Contracted on a course-by-course basis
	Teaching Fellow	Contracted on a course-by-course basis

Pasifika peoples are also underrepresented among professional staff in law schools. For instance, VUW's HR Quarterly Report (13 October 2021) reported that the total number of professional staff across the University is 2,977. However, the University employs a total of only 78 Pasifika staff (21 academic and 57 professional).⁴⁷

These statistics signal that the low numbers of Pasifika legal academics and professionals place greater pressure on those who do exist. As Asafo and Tuiburelevu articulate, Pasifika academics often undertake a wide range of non-traditional academic work, including providing pastoral care for the Pasifika students.⁴⁸

d. Finding the Pandanus Strands

This chapter provides an insight into the current status of Pasifika within the law. The chapter spans both the historical position of Pasifika in Aotearoa and the legal profession and paints a picture through data about how Pasifika are performing in legal education in Aotearoa. The next chapters will refine and bring together the golden pandanus strands – outlining the findings of our *Talanoa* research and the corresponding recommendations.

⁴⁷ Te Herenga Waka – Victoria University of Wellington *Annual Report 2021*. – *Te Pūrongo ā-Tau* (March 2022) <www.wgtn.ac.nz/annualreports>.

⁴⁸ Dylan Asafo and Adi Litia Tuiburelevu “Finding our way to the island: Critical reflections on Pacific legal scholarship in Aotearoa” (2022) 33 JNZS 55.



The Rt Hon Helen Winkelmann (GNZM), Arti Chand President of PLA, and Tiana Epati Former President of the NZ Law Society



Pasifika law students at the Law and Culture Conference 2016

CHAPTER 3: Key Findings

a. Introduction

This chapter highlights the different barriers experienced by Pasifika people in law schools and the law profession in Aotearoa New Zealand. This chapter is informed by the *Talanoa* series and our review of the relevant literature. It presents a Pasifika perspective on the challenges of succeeding not only in law school, but also in the legal profession. The non-identification of *Talanoa* participants was necessary to maintain anonymity. Quotations are used in this chapter to give participants a voice in this report.

This chapter also categorises the barriers to Pasifika success in law school, as well in the legal profession, under two broad categories for discussion. First, the chapter highlights the key barriers and factors that create the condition where a Pasifika individual walks and navigates two different worlds to find a place of Belonging. The lack of Belonging is a barrier that is clearly underscored throughout the *Talanoa* data. Second, the chapter also considers how Pasifika peoples' pathways to success in law schools and in the legal profession have been impeded.

Working from the *Talanoa* data, this chapter provides a rich description, drawn from the lived experiences of Pasifika law students and graduates, of what they see as the underlying factors constraining their success in law school and in the profession. Identification of these factors provides an informed and empathetic basis for better understanding the issues within the Pasifika community settings.

b. Belonging in the Path of Law

“Belonging means feeling at home in all the places where law is spoken and used – whether in the classroom, in the courtroom, or in the boardroom”.
Associate Professor Guy Fiti Sinclair⁴⁹

The primary framework used in this weaving process is the role of the psychological experience of ‘Belonging’ in supporting success in the field of law generally. Belonging is necessary for two reasons. First, individuals can feel a part of or identify with an organisation, whether a law school or a workplace. Secondly, individuals can feel like they are being embraced for their differences and are able to express their true identity. It is through this notion of Belonging that individuals can reach their potential and embrace their identity. As one participant put it:⁵⁰

I used to hide in the back in the lecture theatres and in the tutorials I used to be petrified and you know people would say to me,... you seem like a person who would be, you know, confident, blah, blah, blah and it's like, well, no, because in my mind I didn't belong there...

⁴⁹ Associate Dean (Pasifika), Auckland Law School, the University of Auckland, and the Chair of the Academic Advisory Panel to the Improving Pasifika Legal Education Project.

⁵⁰ *Talanoa* with LP 2, 17 February 2022.

One participant put this clearly in their recounting of a speech given by a Pasifika judge about their journey at the 2019 Pacific Lawyers Association Conference.⁵¹ The judge discussed their graduate experience at a large law firm and said before they started there they were always called by their Pacific name⁵² by family and friends. As they began at the law firm their colleagues anglicised their name. They ought to be able to walk in the doors of large law firms and thrive as easily and as confidently using their Pacific name as they would be able to with an anglicised one, and even though this is a relatively minor example, it is representative.

Hence, without the sense of Belonging, law schools and the legal profession in Aotearoa will continue to struggle in recruiting and retaining Pasifika candidates. Failing to support a sense of Belonging in law schools and the legal profession risks compromising those entities' accessibility to the diverse communities they serve. Taking genuine and proactive initiatives to create and improve accessible and inclusive spaces is therefore critically important. It is also this sense of Belonging that will deliver on the promise of diverse perspectives and backgrounds, enshrined in the strategic documents of the six law schools and the New Zealand Law Society. The issues around Belonging depend to some extent on the structure, culture, attitudes and behaviours of the law schools and the profession.

Participants in the *Talanoa* saw law as a vehicle for change.⁵³

I just chose law because I saw it as this like big thing that like could impact a person's life like really, like have a really big impact on a person's life, and I saw it being used in a negative way in my life, and in my friends life and my family's life, so I just wanted to see how me being involved in it can help like change that and so that it can be the law can be seen as something positive for like my family, my friends...

The participant described how his decision to become a lawyer impacted his friends' and family's perspective of law especially when he grew up in a disadvantaged area in Auckland where many of his friends and family members were involved in gang activities or had run-in with the law. For minorities who have faced historical oppression by and through the law, and who are generally from low socio-economic communities, a law degree can be a powerful tool. It is a means to an end, to ensure you can provide for your family. It is also shield that can turn the law that formerly oppressed societies into a spear to prevent harm and bring about change.

In digging deep into past experiences, one of the participants painted this vivid picture to describe her experiences with the issue of Belonging in one of the law schools in Aotearoa:⁵⁴

In Samoa, you do high school up to sixth form and then seventh form at the National University of Samoa. So effectively, you have to score certain grades in PSSC (Pacific Secondary School Certificate). So basically they take only the top students to the Foundation Year which is a bridge between high school and university. In that Foundation year, you basically vied for five scholarships per faculty to Australia and New Zealand. In my mind, going anywhere else other than Australia and New Zealand was not an option, so I had no choice but to work really hard. So, I was a dux of my high school, I topped our faculty so I got the only scholarship to New Zealand to do law.

51 Talanoa with PS 1, 3 March 2022.

52 Actual names are omitted for privacy purposes.

53 Talanoa with Talanoa with LP6, 14 April 2022.

54 Talanoa with LP 1, 9 December 2021.

CHAPTER 3: Key Findings

Painting a picture of my experience coming to New Zealand, you're coming from a really small pond and you are a big fish – you're a top student – but as soon as I came into New Zealand at 17, looking back now, I guess at the time, I was just excited about the fact that I'm moving to New Zealand because I was born and raised in Samoa. You don't really appreciate the weight of what that would mean... BUT I came and felt like a fish out of water! I remember in my first year of law school, I was going into the lectures, though I outwardly looked non-Samoan because I have German heritage, I felt like I didn't belong there, I felt like I was an imposter, there was no way I was going to pass, I felt like I would have immediately failed.

This quotation reflects many of the factors that cause the lack of Belonging. Along with the novelty of university that is standard across the board, many participants face the extra feeling of being a 'fish out of water'. Many feel out of place, not just in the institution but in the overarching culture, having to adopt new ways of thinking, social interaction, learning, interpersonal relations and even food. Some participants shared that their first year of law school was very difficult because they felt disconnected from their Pasifika community; there was no Pasifika learning community. Some wished they had tutors easily available who had more knowledge regarding the support systems and whether there were other Pasifika students who could connect and form a community. As a result, law study has been described as lonely, emphasising how much of a minority Pasifika peoples are.

Put simply by another participant:⁵⁵

...in that first year, I remember going to the lectures... I felt like I didn't belong there. I felt like I was an imposter. I felt like there was no way I would be able to pass. I felt like the lecturers you know, if they asked me like I just immediately, felt like I was going to fail.

The majority of the *Talanoa* participants connected the theme of Belonging to the 'imposter syndrome' phenomenon, whereby Pasifika students feel they are inadequate, that they are not worthy, or simply cannot see themselves as being at law school or as part of the legal profession. The *Talanoa* data also reveals that the profession is experienced as very monocultural and based on systemic privilege that stems from one's socio-economic background (for example, who one's parents were, the neighbourhood one grew up in or the school one attended). The experience of one participant, now a senior practitioner, shows this:⁵⁶

You know one of my first interviews I had after law school when I went to a private law firm, they were all older men, all the partners I should say, but the first question they asked was, could I understand and speak English? And I thought, of all the things to ask, here I was with a law degree from University of Canterbury, and they were asking this...

In the *Talanoa*, a significant portion of the participants mentioned that they have on multiple occasions considered withdrawing from the law programme.⁵⁷ Participants identified a range of reasons why they have thought about withdrawing; most cited more than one reason. They identified academic issues, feelings of isolation, a hostile environment and/or not fitting in, and concern about achieving future aspirations as the primary reasons why students think about leaving.

⁵⁵ Talanoa with LP 9, 3 May 2022.

⁵⁶ Talanoa with LP 5, 12 April 2022.

⁵⁷ Talanoa with LP 6, 14 April 2022; Talanoa with LP 9, 3 May 2022; Talanoa with PS 1, 3 March 2022; Talanoa with PS 2, 8 March 2022; Talanoa with PS 4, 22 March 2022 and Talanoa with PS 9, 31 March 2022.

'Imposter syndrome' places severe inward and outward pressures on individuals. For many Pasifika participants they felt that they were expected to advance within the profession and conform to the dominant culture, while relinquishing their Pasifika heritage. As reiterated by a legal professional participant who is currently practising:⁵⁸

Imposter syndrome is very real. You can't describe [it], it's an experience. And when you walk into a space, do you have to pretend that you're confident and know what you're doing. My heart is crying but I had to put up a fake strong face. I wanted to be a litigator and I was determined to get into the court room, but it felt like one against everyone... There needs to be a space where even though we represent different organisations, different firms, we should still play a role in empowering each other before and after. I felt that if I was given a little bit of encouragement before I went in or after a court matter, that would have gone a long way. However, because I didn't receive that, I've taken it upon myself to make sure that I do that to whoever is coming through, especially in ... law because it is not easy.

This participant's experience reflects that while imposter syndrome is common at law schools and in the legal profession, not being part of the dominant culture creates increases this 'othering'. The dominant Pākehā culture is often at odds with Pasifika culture and identity, which amplifies the susceptibility to and impact of imposter syndrome on Pasifika in such spaces.

The identities of Pasifika students and professionals are informed by their culture and worldview. As participants made clear, this Pasifika identity is integral to the way they interpret and make meaning of the world, and how they are treated. Standing at the heart of their sense of self, it includes values and beliefs rooted in the family, relational obligations and reciprocity. As one participant explained:⁵⁹

But I've been constantly been reminded at work, you know, I'm very much as a result of my upbringing [a person who always says] "Mr" or "Miss". You don't just meet an elderly person, doesn't matter who they are, and immediately address them with their first name.

And you know the partners in my firm were like, "you need to drop that because people are beginning to think you're a bit of a soft touch" and I'm like, "well, no, because actually this is a part of who I am", and they've come to understand that now. And they also know I'm not a soft touch, but... I feel like you know when we talk about that as a barrier from the palagi side but I've come to see it as a strength.

You know, in fact, I've been able to settle some really tricky claims by not being a dickhead... and just seeing my peers go at it from a different angle and not getting anywhere. It just becomes this battle of egos. Yeah, that aggression doesn't always work. Yeah, I mean, I think there's a time and a place for it but that shouldn't be the default position but bringing it back... You know, I think we've got to make our young people understand what New Zealand society may say is a weakness or a soft touch, it's actually not. We've got to make them understand that we can actually use those to our advantage. And again, you know, and really get them to understand how unique our worldview is.

This participant's experience reflects how Pasifika culture and identity filter through all aspects of who these students and practitioners are, particularly at a relational level. This influences how they practice as lawyers and what they place emphasis on – values like people, community and service.

58 Talanoa with LP 6, 14 April 2022.

59 Talanoa with LP 11, 5 May 2022.

CHAPTER 3: Key Findings

Pasifika students and professionals desire to have a learning environment that prepares them to be competent legal practitioners and professionals without having to relinquish their cultural heritage or lose opportunities to (further) expand their knowledge of this heritage. This means learning how to navigate between worlds purposefully and confidently, with a commitment to the notion of service that will make a difference to the lives of the Pasifika communities in Aotearoa. Pasifika students know how to navigate between worlds, but it can be very tiring to have to do so continuously.

To understand the issues around Belonging, participants were asked about barriers to success in law school and in the law profession in Aotearoa. In response, most participants observed that law schools and the law profession have consciously and unconsciously created barriers for Pasifika entering, remaining and succeeding in law. The next section of this chapter will elaborate on factors identified as creating barriers to success.

c. Wayfinding – From School to University and Beyond

The participants recounted their lived experiences as Pasifika law students and graduates using the metaphor of Navigation and Wayfinding to describe their journey in the law schools and profession in Aotearoa New Zealand. Navigation is progress on a path that others have journeyed before using available information. The ancestors of the Pasifika people have navigated the Pacific Ocean by wayfinding, using only signs like stars and landmarks to guide them.⁶⁰ Pasifika people have also navigated their way to Aotearoa New Zealand for better opportunities. And now law.

1. Preparing for the Journey in Law

The problem of educational preparation is obviously a deep-rooted one.⁶¹ If it is true that success at law school for Pasifika students depends on the quality of their university education, it is also true that success at university builds on primary and secondary schooling. Unless and until there is a solid educational foundation, it will be difficult to see any significant increase in the numbers of Pasifika peoples entering and succeeding in law in Aotearoa. Although the problems within the education system may be outside the remedial reach of law schools it is essential that this barrier be identified until it is ultimately resolved.⁶² One participant shared the following story:⁶³

Another massive barrier I think is... as a Samoan woman, I wasn't raised to think critically because all I was raised to think is "you don't speak especially as a woman, you listen and you do". And as a result at law school [when] I was encouraged to think critically and analyse, I didn't know how to do that. And I tried my best and I remember actually trying to find something that I had written and it said "you didn't critique this piece of work" and I'm thinking, "actually, you just assume that we have those skills and people assume that we know how to do that work". But actually if the university knew the cultural context... which their students come from, they would have – and should have – provided services to assist. Because I was passionate, I was determined but I felt that I didn't have that necessary skill that was quite key. But of course the Pasifika support team came through for me but I had to rely on a Pasifika community to do that when really that should have been something that the university as a bigger body should have prioritised. And I come from a family where my parents work as cleaners, so how was I supposed to expect them to teach me those

60 Fuimaono Dylan Asafo, "We are Voyagers!": Building a Pacific Critical Legal Theory for a New Voyage to Freedom" (2020) 27 Canterbury Law Review 99-122.

61 Talanoa with LP 1, 9 December 2021; Talanoa with LP 6, 14 April 2022; Talanoa with LP 7, 20 April 2022; Talanoa with LP 8, 21 April 2022; Talanoa with LP 10, 4 May 2022; Talanoa with PS 2, 8 March 2022; Talanoa with PS 3, 17 March 2022; Talanoa with PS 4, 22 March 2022; Talanoa with PS 5, 23 March 2022; Talanoa with PS 7, 29 March 2022 and Talanoa with PS 8, 30 March 2022.

62 Talanoa with LP 2, 17 February 2022.

63 Talanoa with LP 6, 14 April 2022.

skills? So I felt heavily at a disadvantage by not being able to critically think... that came with time, but I felt like I was supposed to have that before I started law school. You can see a real and clear division in law school – there were the ‘able’ who just went through law school and say it was easy; and then there are those like me and they were largely my other Pasifika brothers and sisters and Māori brothers and sisters that had to do extra-long yards, just to try and be on the same level playing field as everyone else.

The above comment observed the need to take into account basic cultural competency in academics and law schools to appreciate and respect the Pasifika students’ identities, worldviews and lived experience. It is important to acknowledge the realities that exist outside of the Pākeha understandings of the world.

Additionally, the participant’s experience resonates with those of many other *Talanoa* participants. The experience reflects that for educational preparedness before coming to university, the starting blocks are not equal. The empirical data further illustrates two factors that result in the lack of academic preparedness. First, some participants acknowledged that their parents and families made financial sacrifices to send them to predominantly Pākeha (European) private or semi-private schools, which were often outside of their residential zone and were more expensive than the public schools.⁶⁴

These sacrifices were made by parents who migrated from other Pacific islands countries, not completely fluent in the English language, but with strong migrant values in the belief that the only way to succeed in New Zealand is through education. For example, as one participant articulated, while migration led many families to settle in South Auckland, they would

send their children to be educated in more affluent neighbourhoods like Remuera, which was an entirely different world. Therefore, the mentalities in the Pasifika communities are embedded in the migrant psyche which holds that, in order to succeed, one must be educated and assimilated into Pākeha/Western culture. Although this experience was traumatising, it was meaningful because it helped these participants understand where privilege can take them. The participants agreed that this experience afforded them some familiarity and readiness with Pākeha/Western culture, so they were able to assimilate and communicate well with other law students who were quite similar to the students they went to school with.⁶⁵

On the other hand, some participants shared that they attended low-decile primary and secondary schools. These participants noted that by the time they reached university, they felt inadequate and out of place.⁶⁶ For those who came straight from high school, basic skills, such as time management, examination techniques and writing, were not strong. One participant recalled that in his first year, when students had to complete essays and problem questions, the lecturers never once actually demonstrated what a problem question answer or a good essay should look like. While there were suggestions and help in the lectures to get these things done, the student felt that it would have greatly helped Pasifika students if they had been shown what good answers look like. Had the Pasifika students been given an opportunity to understand what a good answer includes, they would have been able to start from that basis rather than searching around in the dark for the correct answers.⁶⁷

64 Talanoa with PS 1, 3 March 2022.

65 Talanoa with PS 3, 17 March 2022; Talanoa with PS 4, 22 March 2022; and Talanoa with PS 7, 29 March 2022.

66 It is important to note that this experience depends on individuals, and it was generally not felt by older student participants who felt they more were prepared having come to university after working for a while.

67 Talanoa with PS 1, 3 March 2022.

CHAPTER 3: Key Findings

A common feature of participants who had succeeded in law school was the ability to pursue their studies by understanding the rigour required and developing resilience.⁶⁸

I went to [this] College and [am] from a family of lawyers, so law was always in the background but not something that I thought I was going to do. But I knew that I was going to go to university because you don't have any other option when you come from the kind of family that I come from.... but it was last day of applications, they were due at Auckland University and one of my teachers had said to me "what are you thinking" and at the top of my head I said "I'm thinking of doing a law degree". And she was like, "May be you should think of something a lot easier" and that's like waving a red flag in front of a Samoan girl so I said that "no, I'm going to put in an application and if I get in I'm going to come back and tell you". So I put in my application that day and at the time they had the quota system... and someone had said to me at law school, "you qualify to apply in through the quota" and I was like, "you know what, I'm sick and tired of people who keep telling me that I can't do this" so I said, "I know that I'm entitled but I'm not going to get in through the quota, I'm going to get in with my grades". So grades come along and I got into law school and the rest is history... but for me when you see your parents get up at 3 in the morning, working these factory jobs and walking to work when there's no buses, that was always my motivation.

The above comment reflects that many Pasifika high school students are discouraged by their experiences in law school and need a lot of resilience to push past those initial barriers and the structural barriers. Another participant noted that:⁶⁹

My style of writing that I learned in high school was completely different to the one expected at uni. So, I felt unprepared and I felt like I was going to fail these papers because I did not know how to meet the lecturers' standards... In that aspect, I was a bit behind.

The *Talanoa* data also raised another dynamic about the preparedness of Pasifika mature students to study law. Generally, mature Pasifika students who come from the workforce and have some experience doing law-related work have different needs. For instance, mature Pasifika students will have a higher chance of actively navigating support services and law faculty staff and finding help. Participants noted, "I'm not getting the help from class" or from the resource group, therefore "I will email my tutors and professors or really just look for it"; whereas "if you are a high school student, more likely than not, when you don't receive [support], you will feel very lost and if you don't have a lot of support, you won't know how to prompt that conversation with the tutor".⁷⁰

These contrasting experiences were described as a "double edged sword".⁷¹ On the one hand, a mature student might be socially prepared to enter law school, but still not be able to write a law school essay. On the other hand, a high school entrant might be able to write such an essay, but not be prepared for the social aspects of university life, lacking initiative and being too shy to seek help.

68 Talanoa with LP 6, 14 April 2022.

69 Talanoa with PS 2, 8 March 2022.

70 Talanoa with PS 1, 3 March 2022; Talanoa with PS 4, 22 March 2022; and Talanoa with LP 10, 4 May 2022.

71 Talanoa with PS 1, 3 March 2022.

Participants agreed that law school is a good place to develop and acquire skills. Resilience is developed through hard work and commitment. Further, in the initial stages of legal education, law students learn what is expected as a legal profession through the process of preparing for class by reading cases, legal analysis and writing. The commitment required for a law degree teaches one to take responsibility for their own learning.⁷²

Some participants felt it is important for Pasifika to understand that it is not a negative factor, but a part of life, to learn resilience. However, participants cautioned that the barriers must not overwhelm people to the point that they are not able to be resilient, but are led to their breaking point. As previously highlighted, Pasifika law students must be resilient not only against institutional barriers but also cultural barriers. A key cultural barrier identified when entering law school was language.⁷³

So when I came from Samoa, I'm the oldest, even though I was 12, in my mind, mentally, I felt I was 20 because I had been cooking for my family, carrying my family through, so mentally I was old in a body of a young person. So when I came here I felt learning English was a big jump but then learning law was an even bigger jump. I actually didn't get to choose what I studied at law school because that was chosen for me because my dad is very strict. So because English was a massive barrier, it really affected my confidence so things like being shy to the point that I would put myself in the front because of the Socratic method used at the university, I would sit at the front deliberately because I knew I wouldn't be picked on, I could raise my hand to answer the questions because I didn't want to get caught off guard. Then I often rehearsed my answer in my brain in lectures and then tutorials. In my heart and in my mind, I felt that if I was an English speaker it would have been different in terms of experience. I felt disadvantaged because my English was 'fresh' as they would say and I really had to teach myself as I was learning and understanding stuff, I felt that I was constantly behind in my learning.

⁷² Ibid.

⁷³ Talanoa with LP 6, 14 April 2022.

The above comment shows the educational disadvantage that Pasifika law students experienced in the law schools which resulted in discomfort, feeling alienated which further impacted their confidence to genuinely engage in the learning environment. The participant's experience shows that the language issue is not just about failing to understand rudimentary English. Legal education often requires greater academic rigour, both in vocabulary used and also in how statements of law should be expressed. To comprehend and master this skill is a greater hurdle for second-language speakers. Such experiences are not new and are common to Pasifika law students and law graduates, especially migrants. As one participant explained:⁷⁴

I came through from Samoa on the scholarship. I went [to] 7th form because they didn't have 7th form at the time [in Samoa] but that was my first year of trying to translate in my mind. I was still speaking in Samoan in my mind yeah, and so having to adjust to a system of learning in the New Zealand education system was difficult and in the first year at university again was a challenge... I think for me the learning was a bit slower because it's still translating in my head rather than just doing that automatically like I am now. But in most earlier years I was doing it. Yeah, and I found that was an obstacle.

The above comment shows institutional blocks that hampers Pasifika learning because their special needs were not factored into the design or delivery of these law programmes. So for many Pasifika law students, they had to work extra hard to learn the new culture as well as the new language while looking for resources to better gauge and understand their assessments.⁷⁵ This resulted in Pasifika law students struggles that slow their progression in the law schools. A number of participants shared similar stories.

⁷⁴ Talanoa with LP 1, 9 December 2021.

⁷⁵ Talanoa with LP 11, 5 May 2022. It was suggested in this meeting that Pasifika law students could benefit from model answers or platforms that will show them how to answer questions to navigate the expectations of the assessments.

CHAPTER 3: Key Findings

2. Access to Law School

In the *Talanoa* data, one of the key barriers to emerge was that law students did not have successful transitions from secondary school to university. As one participant highlights:⁷⁶

What I do remember is that school didn't really teach you to think critically, it... was always just kind of rote learning stuff rather than actually like teaching you to like stand back and have to think about things, then look at the wider context... it just doesn't really doesn't really set you up for law school when you do a lot of critical thinking and analysing articles. You are just kind of thrown in the deep end and not fully prepared for it.

The above comment shows that for this Pasifika participant, moving from a more structured and organised environment in secondary schools to a more independent learning environment in law schools can be a challenge. For some participants, entering university made them realise that they were in an environment in which they must be independent learners and thinkers without their usual support; they had a sense of freedom to make choices. For first-year Pasifika law students, this experience can be overwhelming. Because their parents are not familiar with university life or processes, these students have to spend a significant amount of time to find their way around and to sort out their enrolment and course selections.

This raises an important issue about their preparation for law school and the subjects taken. If law students had not taken text-heavy subjects such as history, classical study and philosophy, does that mean that they are not ready to do law? The empirical evidence suggests that Pasifika students struggled, but they were able to overcome with hard work, the right attitude and discipline. It is also clear from the empirical data that sometimes NCEA credits are taken just to get through and to get university entrance, so sometimes students are told to take easier credits.⁷⁷

For law schools, there are significant issues for Pasifika law student admission, retention and success.⁷⁸ One participant commented:⁷⁹

Looking back to my first year I think it's changed a lot over the last few years of you know how people treat the Pacific students... getting through the Pacific pathway I felt it was just a way to always have eyes on me, just expecting me to you know, tick a box for them... like I'm in the modelling thing for the Faculty website and I'm wearing like a blue Pacific shirt just like tick a box kind of thing. So yeah a lot of ticking boxes, I feel that comes from the university and yeah I think that has to change into more appreciative appreciation, rather than just you know getting it done.

The participant's experience reflects how diversity initiatives like alternative admission pathways can feel tokenistic and not fully align with the learning needs of Pasifika law students. It also shows how non-Pasifika academics and students have racist assumptions about their entry requirements to law schools which further alienated Pasifika law students.

If Pasifika peoples are to be afforded greater access to legal education, the admissions policies which have helped to exclude them from New Zealand law schools must be restructured. It is easy for legal educators to cite cultural or socio-economic reasons beyond their control to explain why there are still so few Pasifika law students in New Zealand. It is more difficult to take some responsibility for the problem and to dismantle a significant barrier over which they have much control. We acknowledge that some major law firms in Aotearoa have set up programmes to diversify their workforce, like providing scholarship and support programmes for secondary school Pasifika students. However, in the *Talanoa*,⁸⁰ it was recognised that law firms should extend these programmes and policies to the recruitment of Pasifika staff at senior levels, and also

⁷⁶ Talanoa with PS 2, 8 March 2022.

⁷⁷ In secondary schools, NCEA credits can be gained for doing cultural performance and taking part in activities such as Polyfest or the Polynesian Festival.

⁷⁸ Talanoa with LP 1, 9 December 2021; Talanoa with LP 3, 6 April 2022; Talanoa with LP 7, 20 April 2022; Talanoa with PS 2, 8 March 2022; Talanoa PS 4, 22 March 2022; and Talanoa with PS 5, 23 March 2022.

⁷⁹ Talanoa with PS 2, 8 March 2022.

⁸⁰ Talanoa with LP 10, 4 May 2022; and Talanoa with LP 11, 5 May 2022.

to support their professional development and their advancement to leadership roles within law firms. It is not enough to run these programmes at the outset, these programmes can be ongoing, otherwise the incoming Pasifika staff risk feeling 'out of place' and 'not belonging' in these major law firms.

The *Talanoa* data also highlights Pasifika students' lack of understanding of the operations of law schools as a major barrier due to lack of exposure that encourages aspirations and academic preparation for a career in law.⁸¹ Those who succeed have some understanding of how law school operates, especially its administration, organisation and curriculum. They have the added advantage of knowing the layout of university, who can assist you and what is the best way to achieve in a university setting. Those who do not understand how things operate tend to have difficulty and this takes a toll on their scholarly, intellectual and theoretical capabilities. As one participant explained:⁸²

(In terms of how university) operates my (Palagi) mom did go to university I wasn't totally like [participant x] was, I had someone that I could reach out to and say "oh yeah what about this", you know, there was family support that my (Tongan) dad didn't but, having my mom who had was very helpful, even sort of with socialising (with people in the workforce and university). ...This is something different, and it's not like you are terribly discomforted by it, but it's just a slight sense of you know you're going into a different sphere where you're not used to just feeling a little bit out of place, and it magnifies any sort of feelings of inadequacy that you might have.

Hence, issues around language, time management and planning skills are relevant aspects of the Pasifika experience that people need when they enter the law schools.

3. Law School Experience

For most of the participants, recounting their first experience in law classes focused on the feeling of being shy and fearful of speaking up or asking questions. This included not wanting to "tarnish the name" of Pasifika because "putting your hands up to ask a question in front of 300 students is not a comforting experience".⁸³ Some participants did not feel comfortable asking for help if they had questions because none of the instructors were 'brown'; sometimes they would wait until after the class so that they can ask their friends "who are also in the same boat as you".⁸⁴ As noted in the following comments:⁸⁵

Barriers at law school, if I'm being honest, it's a long list, but from a personal experience, at law school, just being brown itself, you deal with a lot of stuff like racism, being shy from asking questions from the get-go; but that started even before law school. We really felt like as PI in a predominantly white space where if you tell someone you're doing law then they will be like shocked – but why are you shocked that a Pacific islander is doing law as compared to a white person? So all these things, you kind of internalise it and it carries over to the work that you do, your assignments, and eventually asking yourself whether you should be doing this. So all this personal stuff that you have to deal with and then you have the other commitments like Samoan fa'alavelave, church commitment, and if you're coming from a strict island family, I am lucky to have very understanding parents who allow me to miss church so that I can finish assignments or because I was tired from staying up the night before. In that respect, I was very well supported. But it was still bad, even though I didn't have to do those things.

81 Talanoa with LP 3, 6 April 2022; Talanoa with LP 6, 14 April 2022; Talanoa with LP 10, 4 May 2022; Talanoa with PS 3, 17 March 2022; Talanoa with PS 7, 29 March 2022; Talanoa with PS 9, 31 March 2022; and Talanoa with Participant 2, 5 April 2022.

82 Talanoa with LP 3, 6 April 2022.

83 Talanoa with LP 9, 3 May 2022.

84 Talanoa with LP 9, 3 May 2022.

85 Talanoa with LP 11, 5 May 2022.

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As shown in the above comment, the issue is multifaceted, particularly if we consider what participants deemed the key reasons for students' failure in their courses – late submission of assignments and failing to attend law classes.⁸⁶ The *Talanoa* data reveals information about how Pasifika people organise time and space differently from the Western education system.⁸⁷ As highlighted above, their priorities are based on values of community and family. Therefore, that service to family obligations outweighed educational obligations at the time.

To create a more diverse environment, legal education should be as relevant and inclusive as possible for all cultures and experiences. These difficulties are further exacerbated by the law discipline itself. One participant noted that courses that are taught with a clear and real outcome focus are helpful. He stated that:⁸⁸

Some tutors were just teaching you [the] content and said “you figure it out”, and you had some tutors who consistently connected the materials to the exam or the assignment and they just talk in the language that makes the connections where whatever you are doing it has to be connected to the outcome. I found that the most helpful. But some professors are just far above us that they don't equip you to figure it all out but they give you the moving parts and you have to work it out how to put it all together. Particularly in year 2 where you have compulsory papers, why a professor couldn't say “well look I'm going to meet with the Pasifika and I'm going to put it out there prior to exam and give them a special time and a special place for them to connect with me”. Because for us, there's lots of research that talks about racism in education systems in general where we're 'overlooked', we're 'outranked', we're just 'passed

over' – and those things are real things and I think that's why tutors like professors to be mindful of that and say “you know what, I'm going to give some special teaching to this group because I want them to succeed and they may have come from a place where they haven't had the same opportunities as everybody else in here, I'll make special connections and see whether anyone needs any help from me because they are a group that may be vulnerable”. It is just asking them to keep an eye on us and to give us a bit of support and help.

The above comment shows how the participant was thankful for support programmes such as extra tutorials where students were able to receive clear and detailed feedback and discuss issues on assignments in person. This form of delivery was identified as very helpful for first-year students to upskill themselves to progress to the second year where they are expected to do independent study. For them, these tutorials provided a safe space for Pasifika students to talk, share and engage, whereas in the mainstream tutorials the dynamics are different.

Further, many participants from the *Talanoa* considered that a major part of the work of Pasifika Law Student Associations was to provide support and systems that should have been already provided by the university.⁸⁹ As one participant noted:⁹⁰

As former executive member for [Association], I really experienced how little we were being heard by the Dean... and when COVID broke out, it was even worse. It was like we are on our own from the get-go; and then COVID hits and we were like 'we are really on our own'. It was really hard to advocate for myself, let alone a cohort of PI law students. It was very draining mentally and physically to fight for students who were too shy to ask for extensions for their assignments. I saw the racism that was playing out in the system so that made it hard for me at law school.

86 Talanoa with LP 2, 17 February 2022; Talanoa with LP 4, 7 April 2022; Talanoa with PS 2, 8 March 2022; Talanoa with PS 3, 17 March 2022; Talanoa with PS 5, 23 March 2022; Talanoa with PS 6, 28 March 2022; Talanoa with PS 8, 30 March 2022; and Talanoa with Participant 2, 5 April 2022.

87 Talanoa with LP 1, 9 December 2021; Talanoa with LP 2, 17 February 2022; Talanoa with LP 6, 14 April 2022; Talanoa with LP 7, 20 April 2022; Talanoa with LP 11, 5 May 2022; Talanoa with PS 1, 3 March 2022; Talanoa with PS 2, 8 March 2022; Talanoa with PS 4, 22 March 2022; Talanoa with PS 6, 28 March 2022; and Talanoa with PS 8, 30 March 2022.

88 Talanoa with PS 2, 8 March 2022.

89 Talanoa with PS 1, 3 March 2022; Talanoa with PS 2, 8 March 2022; Talanoa with PS 5, 23 March 2022; and Talanoa with PS 8, 30 March 2022.

90 Talanoa with LP 11, 5 May 2022.

The above comment shows how a Pasifika Law Student Association struggled to help Pasifika law students during COVID-19 time. It also shows how Pasifika student bodies really needed the support of the law faculties and to be heard by senior leadership.

Some student participants acknowledged that in their Pasifika Law Student Associations, there is no funding for those who are part of their executive group.⁹¹ Although unfunded, these organisations struggle with the feeling that it is not their place to do certain holistic and academic support. It is their love for their Pasifika fellow law students which drives them. But there should be some mechanism in place to support Pasifika students, otherwise they have to support themselves and others.

Consistent with the above sentiments, some participants feel that much of their time and resources are consumed by providing services that law schools should already provide. It is important to note how participants felt when they struggled to meet their learning needs and turned to support mechanisms like student associations for support. One in particular noted:⁹²

Other clubs don't spend as much time as we do in trying to consider all the gaps in our learning and trying to resource the system gaps and trying to see how to fix the basics of that up – it is becoming more and more taking our club's time... and we're so passionate and committed to our community.

We can't stop considering what the most important thing is on top but it shouldn't really be that, it is always about resourcing issues around learning, this is what we've been noticing though, it shouldn't be that we live in that world really, I know that that's the world the Pasifika lives in for many, many things in life, education, health, justice and everything else, we're finding that we're living in that world too. I'm not sure that this is the sort of thing that other clubs suffer from but it is a really valid struggle.

Participants relying on student associations reflected an inconsistency in the levels of support provided for Pasifika law students. The participant's experience above is an indicator that, in some law schools, the services are insufficient or inadequate to suit the learning needs to Pasifika law students. Statistics outlined in this report demonstrate that Pasifika student retention and success rates are very low. These poor statistics have not improved over time because the "assistance that students receive is very token and being such a minority because there's not many brown faces as it is, they don't feel supported in the environment".⁹³ This is in itself a barrier because it does not demonstrate much faith in the Pasifika students that they will make it in law school.

This problem is further compounded if resources or assistance are not visible enough for Pasifika students to understand which resources are available and to find the best resources to assist with their studies.⁹⁴ As one participant explained, Pasifika peoples find it hard to ask for help. If this help is not visible enough, it gets even more difficult for them to cope with the challenges of getting out of their comfort zone and to realise what they are capable of.⁹⁵

Further, participants identified the lack of a support network as a key obstacle. As participants suggested, the experience is particularly difficult for those who were born overseas before migrating to New Zealand. This is compounded by the lack of support from family who have lost most of the social networks they built in their home countries. As one participant stated:⁹⁶

We moved here [New Zealand] to receive better educational opportunities... So in 2018 I decided to move to Hamilton and enrolled in a Bachelor of Laws. I was 17 at the time, so it was the first time that I had fully left home and left my parents; and you know we've come from such a tight knit community, it's like such a big deal when you leave your parents for the first time, and we have our freedom to do our own thing.

91 Talanoa with PS 1, 3 March 2022; Talanoa with PS 2, 8 March 2022; Talanoa with PS 5, 23 March 2022; and Talanoa with PS 8, 30 March 2022.

92 Talanoa with PS 1, 3 March 2022.

93 Talanoa with PS 1, 3 March 2022.

94 Talanoa with LP 10, 4 May 2022.

95 Talanoa with LP 1, 9 December 2021.

96 Talanoa with LP 4, 7 April 2022.

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The above reflects how some participants arrive at law school without their support networks, having moved away from home. These barriers are compounded by having to adapt to a new way of thinking, speaking and even socialising at law school. Having a strong network and family support is very important and a key to succeeding not only in law but in life. As noted by a participant while talking about her pathway to law:⁹⁷

Studying law to become a lawyer is the inspiration that I got from some really important figures in my life. As I was growing up, so I come from a family of strong women and have a really powerful grandmother... she was a really strong woman in our family. She knew what she wanted and how to do it and she knew how to do it with grace so, she knew how to navigate all sorts of social situations and keeping within the boundaries of the culture and she also knew how to do those things intelligently. And then there is my mom who I was inspired by and growing up with my siblings and I was always taught to speak up and speak up for those that can't and for what's right and don't be afraid of how you will be judged or how others will receive you so I guess that just came from our faith as well. Growing up in a Christian household and we've always, I've always had the confidence to at least to go into law studies knowing that this is what I need to be doing and knowing that this is the correct path for me and then I will help others in my community and my village. And it's not all about me as an individual what is more so is that I'll be able to pave the way for other Pasifika students, especially women.

⁹⁷ Talanoa with LP 4, 7 April 2022.

The above narrative shows how belief played a part in the participant's successful journey. Another participant noted that:⁹⁸

I had very good support of my family and I was having the opportunity to go to UoA. ...I really enjoyed studying law and had a chance to clerk at a top tier firm and I have never felt more out of place... and so that played into my decision not to become a lawyer but I did go into [...] and was a natural alignment for me in terms of skills. And what I found in the public sector was an ethos of service which I hadn't found in commercial law. Hence my career path might have been different if I had chosen to go into the law.

The above participant did not have the privilege of having family support to guide him in his journey. The experiences of participants reflect how Pasifika lack the social advantages of their peers at law school. The role of parents is very important. However, culturally Pasifika parents hold high trust in and respect for teachers and academic advisors. These teachers and advisors are perceived by Pasifika parents as having their children's best interest at heart, because they are supposed to advise students on how to map out their career.



Admission of Tiana Tuiali'i to the bar moved by her sister Kima Tuiali'i

⁹⁸ Talanoa with LP 7, 20 April 2022.

For Pasifika law students who were first in their family to attend tertiary education, an academic advisor played a key role in navigating law school and tertiary education. The *Talanoa* data has revealed that in some situations, Pasifika students were discouraged and misinformed about studying law.⁹⁹

In the university setting, Pasifika law students sometimes feel disconnected from the rest of the Pasifika community in the university. One participant commented:¹⁰⁰

I felt really disconnected from the bigger Pasifika community in the university. To them they thought that we were too good for them. But that was just a perception, and I didn't like that as a passionate Pacific woman... because I felt the presence of that perception and could feel the distance.

The feelings of isolation and alienation illustrated above can be a significant barrier to the success of Pasifika students, particularly in an environment that is so culturally foreign at the initial stages of the journey. Participants, however, also expressed a resilience that they gained from adapting in law school to survive and succeed.

Further, participants noted that if universities are serious about improving Pasifika legal education, they need to move beyond tokenistic attempts at supporting diversity. As one participant observed:¹⁰¹

I really do agree with ... that it was the ticking boxes purposes... I don't think it's any of the faculty's problem it's a whole university problem in general. I've been seeing that last year and this year... They just cannot get us to come and take photos and promote to show young students, young Pasifika, [law school staff] need to come to support us but it's just support not only get to be honest it's just ticking the boxes.

The above experience reflects a view of many participants who felt that the support they receive is tokenistic. While a step towards greater equitable access to legal education, participants felt these tick-the-box exercises were window dressing for university advertising campaigns. Participants recognised the importance of these support networks in addressing inequity, but felt that the support was not always consistent with the learning needs of Pasifika law students.¹⁰²

The *Talanoa* highlighted the differences in student support services provided to Pasifika students in the six law schools in Aotearoa. The differences lie in the type and size of services available, as well as how they are administered and funded. The data reveals that in some law schools, students do not participate in the policy-making spaces that inform strategy and planning.¹⁰³ As a result, there is a disconnect between strategic intent and the value gained by Pasifika communities from the outputs of these strategies.¹⁰⁴

Some participants observed that there are resource groups and systems at university to support Pasifika students. However, the *Talanoa* data reveals that participants generally feel that there is a disconnect between these resources and systems and the needs of Pasifika law students. Participants felt that there needed to be collaborative engagement in how the systems are run to allow them to work better and benefit both current and future Pasifika law students.

The data reveals that in some instances if Pasifika students raised issues or offered suggestions to their respective faculties; they are often ignored. One participant revealed that she had the feeling of being ignored and being the object of hostility when she raised concerns.¹⁰⁵

99 *Talanoa* with LP 2, 17 February 2022.

100 *Talanoa* with LP 6, 14 April 2022.

101 *Talanoa* with PS 2, 8 March 2022.

102 *Talanoa* with PS 2, 8 March 2022.

103 *Talanoa* with PS 1, 3 March 2022; *Talanoa* with PS 3, 17 March 2022; and *Talanoa* with PS 4, 22 March 2022.

104 *Talanoa* with PS 1, 3 March 2022; *Talanoa* with PS 3, 17 March 2022; *Talanoa* with PS 4, 22 March 2022.

105 *Talanoa* with Participant 2, 5 April 2022.

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Participants also raised the point that while at law school, their lecturers did not encourage them to continue to do postgraduate studies.¹⁰⁶ Many participants were hesitant to undertake postgraduate studies. After facing so many barriers throughout their long educational journey, they did not wish to continue those struggles, and many did not feel they were good enough.¹⁰⁷ Many participants also had financial obligations to their families and needed to prioritise seeking employment.¹⁰⁸ In that sense, postgraduate education is a privilege. Similarly, many participants could not see academia as a career pathway because of the lack of Pasifika legal academics. Therefore, participants cannot envision themselves in such positions, so law schools cannot just make simple wish lists for diversity in job advertising. This limits the pipeline people who can become legal academics and teach Pacific-related content.¹⁰⁹ In addition, participants believed that law schools should make a concentrated committed effort in employing Pasifika law lecturers to allow students to see themselves as legal academics.¹¹⁰

However, when speaking with participants who are working in the law schools, the *Talanoa* data shows that there is added pressure on Pasifika law academics. Participants shared that there is usually an assumption that the Pasifika academic knows everything about Pasifika:¹¹¹

I know, in the Faculty there are people saying man I'm in this role is kind of like we say it's an unfair advantage, or I got this role, because I was Pacific and whatever, so I feel... there's a pressure on me to perform so that there isn't that kind of talk about it you know... I shouldn't be there, I don't merit the position... so I've been working very hard, because

for me personally that's what it's about. I feel like it's an onus on me to actually perform and show that Pacific people are just as good and just as deserving and meriting of a position like a lecturer at the Faculty of Law, and I think for me in a position that's the most important thing.

The above comment shows how this participant who is also a Pasifika law academic struggled in the law school environment. There is also a feeling that in addition to the challenge of managing task overload, the work that these Pasifika staff members are doing is not always recognised within the academy and the other costs of slowing their research productivity which is required for promotion.

Further, the *Talanoa* data reveals that the courses and curriculum matter to Pasifika students; not only to feel as though they belong, but also to actually enjoy doing law.¹¹² Even in their professional legal training, participants reported that Pasifika perspectives and knowledge are missing.¹¹³ One participant acknowledged that things would have been different for her if she had Pasifika-related courses studied in law school.¹¹⁴

I went to a Pacific Law Conference a couple of years ago... at AUT, and I said to someone that if I had gone to law school here, I would have just loved it because the thing that I was really interested in was papers like Treaty of Waitangi in Canterbury University because it is the idea of challenging the law as it exists or finding the injustices in a system that should be just but isn't...

106 Talanoa with LP 6, 14 April 2022; Talanoa with LP 9, 3 May 2022; Talanoa with PS 1, 3 March 2022; Talanoa with PS 2, 8 March 2022; Talanoa with PS 4, 22 March 2022; and Talanoa with PS 9, 31 March 2022.

107 Talanoa with LP 3, 6 April 2022.

108 Talanoa with LP 6, 14 April 2022; Talanoa with LP 9, 3 May 2022; Talanoa with PS 1, 3 March 2022; Talanoa with PS 2, 8 March 2022; Talanoa with PS 4, 22 March 2022; and Talanoa with PS 9, 31 March 2022.

109 Talanoa with LP 6, 14 April 2022.

110 Talanoa with PS 2, 8 March 2022; Talanoa with PS 4, 22 March 2022 and Talanoa with PS 9, 31 March 2022.

111 Talanoa with LP 4, 7 April 2022.

112 Talanoa with LP 1, 9 December 2021; Talanoa with LP 2, 17 February 2022; Talanoa with LP 5, 12 April 2022; Talanoa with LP 6, 14 April 2022; Talanoa with LP 9, 3 May 2022; Talanoa with PS 1, 3 March 2022; Talanoa with PS 2, 8 March 2022; Talanoa with PS 4, 22 March 2022; Talanoa with PS 9, 31 March 2022.

113 Talanoa with LP 6, 14 April 2022.

114 Talanoa with PS 1, 3 March 2022.

Participants noted that having more Pacific-related content improved their law school experience greatly, with one noting it would make the content more relevant (for example, to learn constitutional law using current events in Samoa).¹¹⁵ Further, there are very few Pasifika-orientated courses that are offered in law schools. Participants often looked for courses that were relevant to them and their identity and were often their ‘one means of refreshment’ in study.¹¹⁶ It was apparent from the *Talanoa* that for Pasifika participants, including Pasifika perspectives and expertise will contribute to the creation and reinforcement of identity, increase motivations for attending university, and assist in retention.¹¹⁷ For completeness, we do recognise that there are administrative issues of finding staff members to teach the Pasifika courses or even Pasifika legal academics.

Many of the participants also described themselves as survivors whose struggle with an essentially inhospitable environment left little time for polishing a thin veneer of academic achievement. One participant noted:¹¹⁸

It's really important for students to have a strong village backing them up. Because, now that I'm at the end of my uni journey... I could not have done anything without my village backing me up. I think it's really important to have really strong pillars in your life to be able to reinforce that just because we are Pasifika doesn't make us less important than someone else who's going for the same scholarship or who's going through the same position, the same role, we have just as much of a chance to get that position or more so in some circumstances.

The above comment acknowledges the important role that her support system played throughout the entire course of her studies. Another participant who works in government noted:¹¹⁹

I grew up in South Auckland and went to law school at UoA. Although I am in policy at [...] and the reason I'm here is I never found law school a welcoming place for brown people. And I think I always wanted to go into policy, but I think in the back of my mind perhaps if law school was a bit more brown-friendly perhaps I would have explored options.

Another participant noted:¹²⁰

I think that that is probably one of the key skills that kind of makes or breaks who does well, like get some second year law other people who are willing to ask for help, but pretty much, the ones that I see that are coming to the first-year tutorials, and are asking questions, even if they're a bit shy, they do it anyways to get over that fear that people that have, (those students) they are the ones who have done really well and, like the people that I know that have kind of suffered in silence and then finally be like oh I don't get this but it's kind of like too late.

The above participant's experience illustrates that Pasifika law students must push themselves from their comfort zone and assert themselves to succeed and cannot be communal in their learning. Seeking help outside of the community can seem like an impossible choice. From the *Talanoa* data, participants felt a distrust at times from members of the faculty who undermine Pasifika peoples in law school. Participants expressed that they felt at times that faculties treated Pasifika as people who are not worth teaching or not worth getting the degrees or not worth getting the positions to better their future.¹²¹

115 *Talanoa* with LP 1, 9 December 2021.

116 *Talanoa* with LP 1, 9 December 2021 and *Talanoa* with LP 2, 17 February 2022.

117 *Talanoa* with LP 2, 17 February 2022; *Talanoa* with LP 5, 12 April 2022; *Talanoa* with LP 6, 14 April 2022; *Talanoa* with PS 1, 3 March 2022; *Talanoa* with PS 6, 28 March 2022; *Talanoa* with PS 8, 30 March 2022.

118 *Talanoa* with LP 4, 7 April 2022.

119 *Talanoa* with LP 2, 17 February 2022.

120 *Talanoa* with PS 1, 3 March 2022.

121 *Talanoa* with PS1, 3 March 2022.

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The absence of physical community and leadership in the law school makes Pasifika law students' vulnerability more invisible. Participants expressed that they did not have the trust to establish new relationships at law school, find working opportunities and get help.¹²² For one participant, this was really vital for them because:¹²³

There are often times where I, as a Pasifika islander, it is very normal for you to think that "you're the one who has to be active" and "I have to contact the staff and Faculty to get help and some form of support", but there should be a level of expectation... that my professor is going to reach out or the staff is going to reach out because they do for mature students. So for me as Pasifika, is it valid for me to ask for that because I don't know but I'm very scared to be asking for it.

The above comment shows how difficult it was for the participant to ask for help. This is a serious issue faced by many of the Pasifika law students. One participant, now a successful lawyer, shares that what was lacking for her growing up was the support to drive her as a high school student and at university to get the right education and experiences to be successful.¹²⁴ The support needed is the kind that tells an individual at high school or just starting off in law school that "yes, law is hard but you can do it" or "just knuckle down for you can do it" instead of telling them that they do not have the right ability or fit to get into law school.¹²⁵ The importance of this support is understated because, with the right support, the Pasifika student can see opportunities instead of obstacles. As one participant puts it:¹²⁶

I probably needed someone like that when I was in high school to say "hey, you need to dig deep because you could probably be applying for scholarships overseas..." and I now do this with my own children because these ideas should be planted in the mind at young age and give them the support they need while encouraging them to drive themselves.

Participants with family members who had experienced tertiary education admitted to having a better understanding of the university processes and were more likely to state a positive relationship with staff and students. In contrast, those who considered withdrawals were not engaged with their peers and their law schools. Participants in the *Talanoa* shared the impression that a significant number of their peers who succeed in law schools or in their professional lives had the advantage of family support, especially those with parents who are lawyers.¹²⁷ For most Pasifika families, however, law students are left to forge their own path.¹²⁸ There are likely circles of privilege even within minority groups like Pasifika. A point for future research is to compare the success of Pasifika law students and legal practitioners with families that are connected to the law and those who do not have this.

The *Talanoa* data firmly points to the importance of Pasifika students having a strong sense of Belonging in law school, which is the result of engagement. Belonging has emerged as a key idea in the *Talanoa* and is closely aligned with the concepts of academic and social engagement. From the *Talanoa*, it was clear that the mismatch between participants' background and that of the law school usually results in the participants not feeling like they belong in the law school. At an individual level, participants' subjective feelings of relatedness or connectedness to the law school is defined as Belonging. This concept also relates to the extent to which they feel accepted, respected, included and supported by others in the law school.

¹²² Talanoa with PS1, 3 March 2022.

¹²³ Talanoa with PS1, 3 March 2022.

¹²⁴ Talanoa with LP 1, 9 December 2021.

¹²⁵ Talanoa with LP 7, 20 April 2022; Talanoa with LP 8, 21 April 2022; and Talanoa with LP 11, 5 May 2022.

¹²⁶ Talanoa with LP 1, 9 December 2021.

¹²⁷ Talanoa with LP 1, 9 December 2021.

¹²⁸ Talanoa with LP 1, 9 December 2021.

4. Unfavourable Winds and Tides from Law School to the Legal Profession

The *Talanoa* data has shown two barriers that persistently discouraged Pasifika law students and graduates from either obtaining a law degree or entering justice-related professions. These barriers are seen as unfavourable winds and tides in the Pasifika law students and graduates' journey from law school and continue through to the legal profession.

4.1 Racism

It is clear from the empirical data that the pathway for Pasifika in the law can be fraught with racism. As a minority, the experiences of participants reflect a constant tension between maintaining their identity and assimilating into the dominant culture due to a preconceived notion that assimilation will lead to success. One of the participants expressed this common view:¹²⁹

For me, law school is quite elitist and it is a very exclusive club and that's the feeling I get where I don't feel included at all... especially in my first and second year where I tried to go to people who looked like me and then those people kind of didn't make it through, so it was like easy to feel isolated...

Many of the participants felt excluded as part of a minority, without the support they would have liked. In law school, there are general frustrations and a lack of faith, especially if there are not many Pasifika law students, and even more so if one first entered law school and then tried to connect with other Pasifika students only to see them not succeeding.¹³⁰

Another dimension that affected the feeling of Belonging, especially for participants who were already working, is the club-like practices and attitudes that affected their sense of fitting into law spaces. In the *Talanoa*, these attitudes and norms were referred to as 'white man's club'. These norms and traditions have tended to favour masculine networks, compounding the disadvantage for Pasifika women. One participant shared that:¹³¹

When I first applied for my job at top tier firm, I mentioned that I went to high decile school but they knew the Headmaster so they called him, so he gave them a good report. Would they have called the Headmaster of low decile school? I don't think so. So, that's an old boys' club coming through, so when our people are not in these schools, we are missing out.

Talanoa data shows that many of the participants, especially the Pasifika professionals, felt that the profession is very 'nepotistic', 'hierarchical' and 'highly conservative'. One participant who worked as a criminal defence lawyer in South Auckland shared that:¹³²

When you look around the room to see who is representing brown people, they are mostly white, they are not Pasifika and the real issue that I have with that is, you've got these lawyers who don't understand our cultural background, who don't understand the context because it is our job to understand context and how they came into offending but what I hear in the Office are these remarks mocking people's accents, very very little empathy for Pasifika and Māori defendants.

¹²⁹ *Talanoa* with PS 8, 30 March 2022.

¹³⁰ *Talanoa* with LP 7, 20 April 2022; *Talanoa* with LP 9, 3 May 2022; *Talanoa* with LP 10, 4 May 2022; *Talanoa* with PS 5, 23 March 2022; *Talanoa* with PS 8, 30 March 2022; and *Talanoa* with PS 9, 31 March 2022.

¹³¹ *Talanoa* with LP 7, 20 April 2022.

¹³² *Talanoa* with LP 7, 20 April 2022.

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Another participant identified the dominant culture that privileges assertiveness as barriers in the legal profession, especially in the courts. The participant noted:¹³³

They impose themselves and they stand and speak down to me in court. And I just wonder how can people feel so entitled, like you know you have 20 years of experience over me, and I respect that, but it doesn't give you the right to speak to me the way you do. And I know this because I've seen the way they speak to others, and I feel like as a brown woman, people don't care much about the brown person in the room unless you're like a partner. You know with 10-15 years of experience then that takes a lot from me for I'm trying to be polite for my juniors that I'm mentoring but I also feel the extra pressure from the bar. But I've developed a few skills now in court now that I'm now able to speak to them in court to help them humble themselves, a little bit.

The above participant's experience reflects how the dominant culture that privileges assertiveness and confidence is sometimes at odds with Pasifika values of respect for elders and supporting your peers. Practitioner participants are therefore weaving finely a way of practising which is a compromise of both cultures.¹³⁴ They have learnt to navigate effectively weaving paths between the Pasifika cultural world at home and the professional Western world at work. Nevertheless, the clash between worlds and the constant weaving of paths and unpicking of weaves in returning to their cultural homes is exhausting.¹³⁵ It is not only a clash of cultures, however. The failure to integrate into the dominant culture meant that participants knew they did not have the support networks their peers had when applying for jobs. The issue can be exacerbated regionally, as the following conversation revealed:¹³⁶

Participant X: My late boss... he actually did some work in Samoa, so you know, two degrees of separation. So yeah he actually did some work for EPC – the Electric Power Corporation. So, he knew a couple of lawyers who used to practise with my Dad, and when I applied for the job, he actually called one of those lawyers and said, "Oh, what about this one?"... . Do you know what that told me though? In my experience here in particular here Christchurch, I don't know if you guys find this: It's who you know.

Participant Y: Yeah it is. Yeah, it's quite cliquy.

Participant Z: Absolutely, if you're on the out, good luck in here; good luck finding a job.

Participant Y: Yeah, 'cause [participant Z] probably still gets asked what school did you go to.

Participant Y: That's Christchurch. Yeah, it's so easy to be asked "What high school did you go to?" But you're 50 or 60 or 70 years old.

Participant Z: Even more at law school it's so cliquy. I mean we Islanders, we naturally gravitated towards each other, but you could tell there were cliques and they were nice enough to talk to, but we never really got in, yeah.

The participants' dialogue reflects the interconnected nature of the law school environment and the legal profession. As the dialogue highlights, Pasifika are disconnected from this network. Some participants felt that even if they try to help other Pasifika lawyers to get their foot through the door with recommendations, they were not taken seriously or heard because of the club-like practices.¹³⁷ For instance, in the Auckland region and in criminal cases, because of the clients involved, Pasifika lawyers have recommended the recruitment of other Pasifika lawyers.¹³⁸ However, some participants revealed that employers continued to hire Pākeha, sometimes on recommendations from judges or other partners or senior lawyers. These underlying advantages due to socio-economic background reflect

133 Talanoa with LP 6, 14 April 2022.

134 Talanoa with LP 6, 14 April 2022 and Talanoa with LP 7, 20 April 2022.

135 Talanoa with LP 6, 14 April 2022 and Talanoa with LP 7, 20 April 2022.

136 Talanoa with LP 1, 9 December 2022.

137 Talanoa with LP 1, 9 December 2021; Talanoa with LP 6, 14 April 2022; Talanoa with LP 7, 20 April 2022; Talanoa with LP 8, 21 April 2022; and Talanoa with LP 11, 5 May 2022.

138 Talanoa with LP 7, 20 April 2022.

the privileging of the elite, or those connected to it, in the legal profession. Even knowing a Pasifika lawyer may not provide the same network given participant experiences of how their recommendations are not taken seriously.

These feelings of not being taken seriously stem from racist experiences that invalidated Pasifika lawyers. In the *Talanoa*, there were instances in which some participants received stereotyped remarks like being asked “are all women from your culture like this... stropy?” or being expected by a law firm partner to be “loud and making everyone laugh because that’s what he knows – happy-go-lucky islander”.¹³⁹ Being treated differently in this way often created uncomfortable situations and experiences for the participants in the *Talanoa*. Participants explained how this discomfort led them to feel like they were not supported in the firm or organisation and that they were measured against preconceived ideas about how Pasifika peoples should behave.¹⁴⁰ One participant specifically commented:¹⁴¹

...in terms of leadership, people that we hold as leaders, we don’t have enough people that can see us for who we are and what we can bring... We don’t have diverse leadership and even with those who are Pasifika and who are in those leadership roles, they don’t have as much power that you would expect them to have... In my personal experience, they’re often told their lines. So it’s very hard to change or challenge things because of the limitations of their roles. In reality, that’s what they’ve been appointed for, right, they meet that mould the agency needs. That can also be very conditioned as well.

139 *Talanoa* with LP 1, 9 December 2021.

140 *Talanoa* with LP 6, 14 April, and *Talanoa* with LP 8, 21 April 2022.

141 *Talanoa* with LP 8, 21 April 2022.

The above comment acknowledges that Pasifika leaders are usually included or considered for specific ways that have been determined by the organisation. This also implies a total disregard of the leadership capabilities of Pasifika people and by extension, the value that Pasifika people bring to leadership roles.

Further, participants showed a passion and vigour to take the opportunity in *Talanoa* to share their experiences with racism. Surprisingly, while discussed passionately in *Talanoa*, many experiences of participants were internalised, leaving them with the feeling that they could not speak out in those instances. As one participant noted:¹⁴²

As a Pasifika student sitting in the lecture and hearing a lecturer saying that maybe Pasifika and Māori students shouldn’t be getting the first-year training school fees for free and I thought, “wow this is unacceptable” but at the same time, why are we allowing this to come across from the Faculty especially since it is supposed to be a welcoming space to learn and whatever we decide to learn. Why aren’t our academic needs being targeted? Why isn’t my professor reaching out? In the South Island there’s always that feeling of racism towards Pasifika. But you can’t just fall with it because you have to keep your head up and keep going and try to do more. I personally didn’t feel I had to go back to that class but I wonder how many other students from Pasifika backgrounds go through classes and feel that they are not fully welcomed and getting the right treatment that we need added to our academic needs as a minority group because it is essential in helping us going forward... I ended up failing pretty much because I didn’t like what I heard and saw. It is finding and reporting the issues that we are facing because it is targeting those little issues that would help us succeed in law school.

142 *Talanoa* with PS 1, 3 March 2022.

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The participant's experience with racism and marginalization obviously created an uncomfortable learning environment for her which resulted in failure. One participant shared a traumatic experience where, instead of being supported, she was ridiculed and left her almost leaving legal practice. She reported:¹⁴³

I remember when I first started at [...], in my second week there, a senior lawyer called me a lazy 'N-word' and apparently this senior lawyer had been working there for 10 years and no one had ever reprimanded him. I was new and I was called a new, cocky, arrogant young lawyer and I thought that I was going to teach him a lesson. When I made a formal complaint about him, I didn't realise that it was going to have these social ramifications so even when there's a policy in place, socially, the impact... was not great at all. I was labeled as the 'troublemaker', he is a senior lawyer and no one has ever questioned him, he's really close with the boss... but he said these things about me, who wants to work with someone who calls me a coconut and n-words so that told me what I needed to know about the workplace and the profession. That is, their preference is to protect this powerful white man, protect his ego, rather than helping a junior lawyer who thought that I could make a change and a difference. In the legal profession, everyone knows everyone, and your reputation is gold. If there's a policy, it needs a plan for implementation and across all law firms, all law practices...

The above comment shows that racism, marginalisation and exclusion continue after law school to the legal profession. At the same time, from the *Talanoa* data, there were some participants who did not think they were discriminated against because they are Pasifika people. The data appears to present contradictions to others who had recognised they were being treated differently. Pasifika people are not a monolith, but the feeling and concern of some participants to be treated equally and not consider they are or have been treated differently should be unpacked in future research.

143 Talanoa with LP 7, 20 April 2022.

This sometimes impacted on their workloads and affected their performances. For instance, one participant in academia noted:¹⁴⁴

While I'm trying to do my best in the role... they're going to expect me to do like almost everything Pacific-related and they are going to call on me. In other papers, if someone has a Pacific interest they think I know everything about the Pacific and they asked me to do a guest lecture on random things by going, and it's kind of difficult for me to say no to them, so I take on these guest lecture roles which adds a lot more, because you know, there's like so many jurisdictions in the Pacific and legal systems and they expect you to come and lecture on say, climate change or and that's not my background, the oil in the Pacific is not climate change law at all... but they'll say to you to come and give that and they expect you to do it and that's what's happening. It's like since you're the only Pacific one it's not even just within the faculty but also from other faculties. ... And it ends up adding so much more work, because obviously I don't know anything about this, I have to go research and try to understand the subject matter enough to give a lecture on it.

As can be seen from the above account, efforts are being made to recruit Pasifika graduates into academia. However, Pasifika legal academics had the added pressure to be the representative on everything Pacific-related.

In other cases, Pasifika academic staff are excluded from issues which clearly reflect their expertise, yet other faculty members claim a stake in that area. These issues are worth addressing to ensure that Pasifika academic staff are being embraced for their legal expertise and not to fulfil diversity or representation quotas on law faculties.

144 Talanoa with LP 4, 7 April 2022.

The *Talanoa* data shows that sometimes Pasifika peoples avoid addressing racism directly. The Pasifika cultural norm of being silent about uncomfortable situations often means that Pasifika peoples internalise and rationalise the existence of racism, consciously or unconsciously, in order to live and function ‘normally’ as is expected.¹⁴⁵ They tend to only talk about being treated differently if they are given a chance to speak for themselves in a trusted environment where they feel comfortable and safe.¹⁴⁶ On many occasions they cannot have substantial or specific evidence to prove they are being discriminated against due to the subtle expression of racism, such as a fleeting facial expression and body language, or plausible explanations for different treatment.¹⁴⁷ The inability to point out discrimination explicitly and being reminded of immigrant identity continuously forces Pasifika not only to normalise and internally rationalise racism, but also to blame themselves for being too sensitive and overthinking if they feel uncomfortable from being treated differently.¹⁴⁸

Pointing out Pasifika peoples’ internalisation of racism is not to accuse them of being complicit in the problem by their acquiescence. However, it is essential to see things from a Pasifika perspective. As migrants, Pasifika prioritise financial stability, for their families both in New Zealand and abroad, over issues of diversity and micro-aggressions of racism.¹⁴⁹ Participant experiences reflect a high tolerance, for instance, of racism because of the underlying priorities for many participants, making them acutely vulnerable and less likely to directly call out racism.¹⁵⁰

145 *Talanoa* with LP 1, 9 December 2021; *Talanoa* with LP 6, 14 April; and *Talanoa* with LP 8, 21 April 2022.

146 *Talanoa* with LP 1, 9 December 2021; *Talanoa* with LP 2, 17 February 2022; *Talanoa* with LP 4, 7 April 2022; *Talanoa* with LP 6, 14 April 2022; *Talanoa* with PS 2, 8 March 2022; *Talanoa* with PS 4, 22 March 2022; and *Talanoa* with Participant 2, 5 April 2022.

147 *Talanoa* with PS 1, 3 March 2022; *Talanoa* with PS 2, 8 March 2022; *Talanoa* with PS 8, 30 March 2022; *Talanoa* with LP 1, 9 December 2021; *Talanoa* with LP 2, 17 February 2022; *Talanoa* with LP 5, 12 April 2022; *Talanoa* with LP 10, 4 May 2022; and *Talanoa* with LP 11, 5 May 2022.

148 *Talanoa* with LP 1, 9 December 2021; and *Talanoa* with LP 9, 3 May 2022.

149 *Talanoa* with PS 4, 22 March 2022; *Talanoa* with LP 6, 14 April 2022; and *Talanoa* with LP 10, 4 May 2022.

150 *Talanoa* with PS 4, 22 March 2022; *Talanoa* with LP 6, 14 April 2022; and *Talanoa* with LP 10, 4 May 2022.

4.2 Gap Between Principles of Diversity and its Actual Practices

Participants feel that although there is a general push for diversity, in practice the people in Aotearoa have still not let go of their exclusive culture to create a genuine space and pathways to realise diversity. One participant described an experience from their work as a lawyer:¹⁵¹

I remember getting into trouble because a group of students from X [College] messaged me asking that they want to know what it's like to be lawyer and I was like, come to my office and I will take you around for the day. You just do it because that's what you do if your mom's friend called you and asks for help you would do it. So four of them came so I took them around the office, courts, lunch and I took them to the police station and the cell which I was allowed by the courts but in the office I got in trouble because there needs to be clearance, need to know who these kids are though they didn't see any confidential papers at all, and they were in the office for about 5 minutes and I took them to the foyer because I kinda suspected that there were going to be issues. From that day, I realised that actually this is not a place that encourages or wants to open doors for our people. They protected themselves under the umbrella of 'bureaucracy' by saying 'confidentiality', 'not safe' but they bring their own children in or their own family members and I just see these kids as an extension of my family. Because that's how we are as Pasifika, we are relational, we are collective.

The above experience shows how, despite numerous national and institutional commitments to diversity and inclusivity, racism persist. For some participants who are also in the workforce, they shared that they had spent years trying very hard to be part of the team and constantly justifying their actions or proving to themselves that they should be considered part of the team. One noted:¹⁵²

151 *Talanoa* with LP 7, 20 April 2022.

152 *Talanoa* with LP 6, 14 April 2022.

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I thought that I didn't have to deal with that after I left law school but no, there's another that I had to deal in the legal profession, it's another world. This is my first role and where I work, I'm the only PI and it's almost a year and I still don't feel part of the team. Sometimes I feel like that I'm this little person compared to them. They don't understand that sometimes some of the things that I do just because I'm a Samoan like bringing in coffee or going out of my way to ask them if they need help with anything – they get shocked and I feel like I'm constantly having to prove myself to them, that I am good enough to be in this legal team because after being admitted... I've been trying to prove to my boss that I am part of the team. But everything I envision for the work is different because I think differently from them. But why do I always have to go further than the others just because I look differently to you or think differently? This feeling makes me want to leave and I'm definitely not going to stay here... and this is why I don't want to work for a commercial law firm or a big law firm because I already know how they'd treat me, having to constantly prove myself to those people. It is exhausting because there's a specific way you have to talk and be in the office and sometimes I just want to walk in and be myself. My friends had a joke when I moved to this city that it is going to whitewash me and I'm slowly feeling it.

The above comment demonstrated that there is a considerable gap between the goal of diversity and actual practice. Although many of the participants tried to emphasise their own problems in discussing the barriers, it became clear that the systemic barriers are much bigger than they would acknowledge. For instance, participants noted that the Law Society undertook the 2018 Legal Workplace Environment Survey, mentioned earlier, which led to the establishment of new rules around racism, bullying and discrimination following an independent review.¹⁵³

While the review's recommendations were welcome, the implementation fell short of finding a meaningful solution that would cause a cultural shift within the legal profession to genuinely address issues of racism, bullying and discrimination.¹⁵⁴ Similar attempts have been seen in law schools in policies and strategic agendas. However, like the Law Society survey and review, there is still much more to be done.¹⁵⁵

Another example of the gap between the principles and practices of diversity is the experiences the participants had with Pākeha students in law schools. Some researchers suggest there is a positive influence made by official endorsement of diversity and multicultural education on predominant public values and attitudes towards the social and cultural diversity in New Zealand. However, according to the participants, the Pākeha students who they encountered ignored Pasifika students and sometimes even made inappropriate comments about the basis of their admissions to law school.¹⁵⁶ One participant recalled when she was asked by her fellow student whether she had entered through 'the Pasifika pathway' when there was no such pathway at the law school. She stated:¹⁵⁷

In my first year, I saw a lot of people who want to see you fail. You're going up against 1,200 other people who vie for a spot in 2nd year law, and when you're in that situation, it can cause a lot of anxiety... for me, I like to learn in groups, and so just trying to find that group that I can actually study with was a bit difficult because they didn't want to give you the answer because maybe you'll take their spot. Other students would be like, you don't have to study so hard because you'll get in through the Pasifika pathway. And I was like, I don't think there is one...

¹⁵³ Lawyers and Conveyancers Act (Lawyers: Conduct and Client Care) Amendment Rules 2021. See also the Independent Working Group Report of the Law Society Working Group (New Zealand Law Society, 2018).

¹⁵⁴ Talanoa with LP 7, 20 April 2022.

¹⁵⁵ Talanoa with LP 7, 20 April 2022.

¹⁵⁶ Talanoa with PS 2, 8 March 2022; Talanoa with PS 5, 23 March 2022; Talanoa with PS 6, 28 March 2022; Talanoa with PS 7, 29 March 2022; and Talanoa with LP 11, 5 May 2022.

¹⁵⁷ Talanoa with PS 2, 8 March 2022.

This attitude reflects not only the gap between diversity principles and practices. While many law schools implement affirmative action policies to address societal inequities in communities, and in the profession itself, they come with the negative connotations. We recognise that the current solutions and support for Pasifika may have unintended consequences. It is important, then, for law schools to find ways to empower their minority students and/or create a culture of tolerance and understanding within the student body. One participant observed:¹⁵⁸

And I think that their mindset is stuck on it because we have these opportunities that we need to work, these people work harder... . It makes me pretty uncomfortable at times I guess. When I really think about it, ...it's not really the Faculty like they're not out to target us, but I think that the students are kind of a little bit racist, if I'm honest.

The above and the experiences of many participants illustrated a struggle with the parading in New Zealand of multiculturalism and inclusiveness, while privileging European culture.¹⁵⁹ Participants noted that failing to support diversity in the legal profession risks compromising its accessibility to the diverse public it serves;¹⁶⁰ actively working to create accessible and inclusive workspaces is critical. It appeared clear from *Talanoa* participants that given high rates of mental illness,¹⁶¹ and experiences of imposter syndrome in the profession,¹⁶² improving the inclusivity and openness within the profession will have far-reaching positive effects for Pasifika peoples.¹⁶³

d. Navigating Between Two Worlds

It is clear from participants that there are significant differences in the underlying principles on which the mainstream (predominantly Pākehā or Palagi) culture and Pasifika cultures are founded, and that this poses a significant barrier to succeeding in law school and in the law profession.¹⁶⁴ Pasifika worldviews and the mainstream worldview are founded on very different ideologies.¹⁶⁵ Pasifika cultures focus on collective values, such as respect and humility, with an emphasis on helping the family and the community rather than personal gains,¹⁶⁶ whereas Western culture promotes individual values.¹⁶⁷ This can create a deep, internalised conflict. For example:¹⁶⁸

The concept of billing. For me, it felt really immoral to bill people. It was a culture shock going from law school where you're learning and then into private practice where you're expected to start billing – like this is your target and this is your rate. I know others who weren't Pasifika, they didn't have that struggle, they were all about moving up the ranks which is same as us, but we did it in a different way. But it felt really immoral so as a result when I was in my private practice, I exercised a lot of discretion, discounted a lot of people, and I felt in my heart that it was the right thing to do. Those things made me feel better.

¹⁵⁸ Talanoa with PS 2, 8 March 2022.

¹⁵⁹ Talanoa with LP 5, 12 April 2022; Talanoa with LP 6, 14 April 2022; Talanoa with LP 9, 3 May 2022.

¹⁶⁰ Talanoa with LP 1, 9 December 2021; Talanoa with LP 3, 6 April 2022; Talanoa with LP 5, 12 April 2022; Talanoa with LP 8, 21 April 2022; and Talanoa with LP 10, 4 May 2022.

¹⁶¹ Talanoa with LP 10, 4 May 2022.

¹⁶² Talanoa with LP 1, 9 December 2021.

¹⁶³ Talanoa with LP 2, 17 February 2022; and Talanoa with LP 7, 20 April 2022.

¹⁶⁴ Talanoa with LP 4, 7 April 2022, Talanoa with LP 6, 14 April 2022; and Talanoa with LP 8, 21 April 2022.

¹⁶⁵ For example, one participant gave an example of his experience with using a company credit card, which was so foreign to him because his family avoided credit cards – Talanoa with LP 3, 6 April 2022.

¹⁶⁶ Talanoa with LP 2, 17 February 2022; Talanoa with LP 5, 12 April 2022; Talanoa with LP 10, 4 May 2022; Talanoa with PS 3, 17 March 2022; Talanoa with PS 7, 29 March 2022; and Talanoa with PS 8, 30 March 2022.

¹⁶⁷ Talanoa with LP 4, 7 April 2022; Talanoa with LP 9, 3 May 2022; Talanoa with PS 1, 3 March 2022; Talanoa with PS 5, 23 March 2022; and Talanoa with Participant 2, 5 April 2022.

¹⁶⁸ Talanoa with LP 6, 14 April 2022.

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The empirical data echoes the conflicts between the underlying values of Pasifika and Western cultures experienced by many post-colonial societies and ethnicities. Most of the participants in the *Talanoa* were born in New Zealand and many are first generation tertiary students. Therefore, the starting blocks for Pasifika are different. Like many first in family students, Pasifika individuals will lack the advantage of support from family who have navigated the application to and succeeded at university. This disadvantage is compounded when you consider the issues of being from a different worldview and issues of imposter syndrome. For instance, many junior practitioners in *Talanoa* discussed the shock they faced from their inability to understand the social nuances in sending emails, legal writing and navigating office politics. The cultural divide plays a huge role here. Such factors can make or break a law graduate's first steps into their careers.

Further, in the *Talanoa*, participants acknowledged the difficult issues they face with the cultural values of family and church, which are often at odds with the norms and practices of mainstream New Zealand culture and society.¹⁶⁹ Even then, there is a sentiment that law schools are not inclusive or culturally competent. Law schools fail to comprehend the Pasifika worldview and all that underpins us, like where we come from, our obligations and responsibilities to our communities.¹⁷⁰

As mentioned earlier, Pasifika culture is grounded in community with an emphasis on duty, service and cooperation, compromise, and sacrifices for family and community. Pasifika peoples tend to conform to attitudes that create social harmony, rather than impose their own individual feelings, opinions, or desires. *Talanoa* with Pasifika law students and legal professionals suggest that the aspirations of Pasifika

participants are often shaped by a desire to assist their families and their communities, rather than to advance their own individual careers. For example, one participant shared a personal turning point when he was working on an employment matter for an employer of cleaners at a workplace, most of whom were Pasifika. He was on the train to work, and when it stopped in front of the workplace, he witnessed cleaners protesting the employer on the file he was working on. He found himself morally challenged and he reflected on the question of whether he was working "for our people or against our people" (Pasifika). That incident for him was a reminder to return to his roots, namely, to serve the Pasifika community.¹⁷¹

In contrast, the mainstream approach focuses on the individual, purporting to take an objective stance and emphasising critical thinking. One participant attested:¹⁷²

I think one of the first things, probably for me was feeling, just like shy or... like I didn't feel that comfortable asking questions when I didn't know (how to respond). In first year... like none of the lecturers or the tutors were brown and I didn't feel super comfortable approaching them after and there wasn't something I think... I didn't really learn to (grow in) my confidence, then grow enough to... actually approach and ask people for help until I got more involved with Pasifika Law Students Society.

[...] I just I didn't want to seem like if I ask a question I'm going to look down and I don't want to be looked at like that brown kid (that) doesn't know what he's doing because, and I don't want to like tarnish the name or anything like that so I'd rather just... not say anything until afterwards and I'll talk to some friends and they're in the same boat as you most of the time.

169 *Talanoa* with LP 1, 9 December 2021; and *Talanoa* with PS 1, 3 March 2022

170 *Talanoa* with LP 1, 9 December 2021; *Talanoa* with LP 9, 3 May 2022; and *Talanoa* with PS 1, 3 March 2022.

171 *Talanoa* with LP 9, 3 May 2022.

172 *Talanoa* with LP 9, 3 May 2022.

The above comment shows that the mismatch of mainstream norms and Pasifika worldviews begins at law school and continues into the legal profession. As participants in the *Talanoa* explained, this mismatch is a power play of dominant and subservient cultures – one culture dictating the terms of engagement and another feeling compelled to assimilate or be left to flounder or in some cases ‘fail’. Some expressed a sense of struggle because they felt caught between two different worlds: their Pasifika world and that of the dominant Aotearoa New Zealand culture.¹⁷³

Further, for some participants, this mismatch often means the juggling of several competing priorities. On the one hand there is their education, part-time work, family obligations, church obligations and other responsibilities to their communities.¹⁷⁴ As a result, some student participants took longer to finish their degrees,¹⁷⁵ others discontinued their studies, while some exhausted their StudyLink allowances so that by the time they finished they could no longer receive financial support from the Government to complete their professional studies and be admitted to the roll.¹⁷⁶ These realities are often interpreted by those who are not well-versed in Pasifika worldviews as ‘lacking the ability to do law’. One participant noted:¹⁷⁷

I worked full-time all throughout my undergraduate and my Masters, because I needed to support my family. What that impacted was time and my commitment to my studies was significantly compromised because I needed to be there for my family in terms of finances, but I was expected to achieve this degree that was chosen for me. So what happened then is ‘Expectation versus Reality’; they were two different things. But because of my upbringing, it is not something that I could explain.

¹⁷³ Talanoa with Participant 2, 5 April 2022.

¹⁷⁴ Talanoa with LP 6, 14 April 2022; Talanoa with LP 7, 20 April 2022; Talanoa with PS 3, 17 March 2022; and Talanoa with PS 8, 30 March 2022.

¹⁷⁵ Talanoa with LP 3, 6 April 2022.

¹⁷⁶ Talanoa with PS 6, 28 March 2022.

¹⁷⁷ Talanoa with LP 6, 14 April 2022.

For most of the participants, law school is still a priority, but the reality is that other requirements, such as supporting their families, can and usually does take precedence. The potential for financial stress is clear, but homes can at times be quite crowded, making it difficult for some students to find appropriate spaces to do their schoolwork.¹⁷⁸ This is testament to a focus on the collective, where the sense of duty and support is not regarded as an imposition, but a fundamental aspect of Pasifika culture.

The emphasis is on meritocracy, with law firms wanting to hire students with the highest law school grades. Some participants suggested this was misguided: in working with vulnerable people, ‘meritocracy’ should mean hiring people with diverse backgrounds, empathy and the ability to deal with different pressures. As noted by one participant:¹⁷⁹

I’ve trained over 50 junior lawyers and there’s a real difference between a lawyer with top grades trying to explain to a client section 8 of the Bail Act and a Pasifika student, who may not have had the opportunity to have good grades because of other pressures that were going on while at uni, sitting there and communicating section 8 of the Bail Act – there’s a huge difference. And I would pick any person who knows how to communicate over the A+ student because that is our role, to communicate.

The participant comment articulated how the mainstream approach to meritocracy creates an atmosphere of exclusion and undermines the sense that others have something equally valuable to contribute. For some participants, such an approach can alienate Pasifika leading to missed opportunities due to feeling inadequate. These feelings continue into practice and there is often a challenge in overcoming the obstacle of conformity. A more holistic approach, taking into consideration all the factors that the individual brings to the legal profession, would encourage diversity and inclusion both as law students and later as legal professionals.

¹⁷⁸ Talanoa with PS 3, 17 March 2022; Talanoa with PS 5, 23 March 2022; and Talanoa with PS 9, 31 March 2022.

¹⁷⁹ Talanoa with LP 7, 20 April 2022.

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Participants viewed programmes like *TupuToa*¹⁸⁰ and internships targeted at Pasifika people as helpful; it is worth noting, however, that these are not available in all areas of practice (for example, none are available to work in criminal defence). To some participants it shows the lack of pathways for Pasifika lawyers to go into those spaces¹⁸¹ in which Pasifika peoples are overrepresented.¹⁸² As noted in our literature review,¹⁸³ New Zealand Law Society statistics show that the main areas Pasifika lawyers work in are criminal and family law.¹⁸⁴ These areas appeal both to the Pasifika inclination to community and service and the oratory nature of Pasifika cultures as practice areas that involve a lot of litigation. Although litigation involves oratory (which Pasifika are good at), there are aspects which do not align with the Pasifika culture. One participant observed:¹⁸⁵

Litigation is a very specific skill. Litigation requires me to go against my core values of respect and alofa¹⁸⁶. Essentially, you're representing a client and in some way you have to speak in a certain way and stand up for your client in a certain way – ways that may conflict with your values. In my early years, I found it really hard to navigate. I felt like that it was a competition. I didn't want to compete but the vibe that I was getting was that 'if you want to be a litigator, you have to be able to be like a tiger in a cage'. You have to bring that attitude, bring that strength which I didn't think that that should have been a requirement. I felt that and I felt that there's a better way to prepare people in litigation and this is not it.

Talanoa participant experiences above reveal that success is not just about your legal acumen or practical ability, but also your ability to fit into the dominant Western work culture. As the participant explains above, this can be particularly difficult as a junior lawyer. More senior practitioners have built resilience to survive to remain in the legal profession.

The participant above also explained how she spent most of law school trying to master the 'rules of the game' and when then finally had some mastery in their final years, the 'rules' changes in the legal profession. There is a feeling that one needs to come across quite confident or 'fit the box' of the lawyer they want one to be, as one participant observed:¹⁸⁷

Communication in formal email is almost like a form of art on itself, whether it's internal or external. Being able to speak or write formally in your correspondences is a big part of the profession and how you write in correspondences, I found can either assist you or not in getting things done in the job. A prime example was when we had an email exchange internally that our partner had asked me and another senior lawyer to do a piece of work and this exchange was kind of after-hours and the next day, I just did the work assuming that they would have assumed that... so I just did the work in the morning... but was told that it's rude not to acknowledge email but in my culture, when I was told to do something, I do it without questions and it's done. So that's the approach that I had taken particularly because it was after-hours I didn't think it was appropriate to email back after hours... It was something that I noticed that kind of etiquette wasn't anything that I had learned growing up. And I think that's where a lot of non-Pacific lawyers who make up the majority of the workforce, I feel like that is something that they kind of inherently know how to do because they've heard their parents or know their work stories like some of the language around the correspondences was something that took me a little while and time to get used to. And then the same thing applies with asking

180 *TupuToa* is an internship programme that creates employment pathways for Māori and Pacific *tauirā* (interns/learners) in the private and public sector. See www.tupuToa.org.nz.

181 Talanoa with LP 7, 20 April 2022; and Talanoa with LP 11, 5 May 2022.

182 Lisa Marriott and Nazila Alinaghi "Closing the gaps: An update on indicators of inequality for Māori and Pacific people", (2021) 32 JNZS 2.

183 Dr Mele Tupou Vaitohi & Wiliame Gucake *Improving Pasifika Legal Education Project Literature Review* (Borrin Foundation, March 2022).

184 Geoff Adlam "Lawyer ethnicity differs from New Zealand population" *LawTalk* (Volume 920, Wellington, 3 August 2018).

185 Talanoa with LP 7, 20 April 2022.

186 *Alofa* is a Samoan word which means love, empathy and compassion.

187 Talanoa with PS 1, 3 March 2022.

questions, like asking questions to the partners and the seniors, I don't want to be seen as a burden or take up their time so if I ask a question, I would be particular about the time to make sure that they weren't too busy which is hard to find because they are always busy.

You're not comfortable in a space where you don't really see a lot of people who look like you. Not only that but the different upbringing to some of the people that I work with.

These experiences make me feel I don't want to be there. It does not give you the confidence that this is the place to stay.

The environment didn't make us feel valued, it made it hard to be ourselves.

The above comment shows that the lack of strategies to understand how to succeed in the workplace is exacerbated by the fact that many Pasifika are first in their family to go to law school and the profession. They do not have any of the advantages of being able to model their behaviour and seek advice from family and friends. In other words, once Pasifika students enter law school, most cannot draw on their family's experiences in terms of an ethos and outlook focused on the law. At the same time, they are confronted with a monocultural and privileged environment and may not have had the social advantages that make the law school journey easier than most of their *Palangi* (European) peers. This disadvantage can arise even though they are keen to get stuck in, as they are at a decided disadvantage they have some catching up to do.

The *Talanoa* data suggests that the more the Pasifika student assimilated to be more like mainstream law students in their dress, interests and even speech, the more likely they were to succeed in law school.¹⁸⁸ This observation reflects the fact that Pasifika culture is not accepted to the extent that students are able to achieve high grades at law school. Other factors of Pasifika culture, such as family, church and cultural

obligations, can make it difficult to balance legal studies and may hinder the achievement of high grades if not appropriately handled.

This disregard for others within Western institutions fails to accommodate diversity and inclusion. For participants with post-law experiences, the failure of the mainstream to recognise or understand Pasifika cultural values not only overlooks the strengths of Pasifika but also limits their capacity to contribute their special talents of *tauhi vā* (interpersonal skills), which are manifested in relationships within their environments, whether it be learning or working. As one participant noted:¹⁸⁹

The legal career didn't really attract that much. I was halfway through my law degree that I sort of knew that "nah", definitely not want to be in the court, don't want to be a lawyer, I was dreading the countless amount of hours that you would need to put in, particularly, [at] entry level. What is key to us is making sure that we have decent money to support our family and you know, when you compare private legal practice to working for a [government] agency, you know, the conditions are attractive, you're working from 9 to 5 mostly and the paid salary for beginner levels are a lot more and better than starting out as a new junior lawyer. I think that the other thing too, is the certain hierarchical nature of law firms really put me off. And also the whole corporate image. The corporate image is really not something I sort of identify with. Particularly when it comes with the culture that's very competitive, very egotistic, that's not the way we operate. I think that's what made the public sector a more attractive place to work in because it works towards a common goal of bettering the society but also, you most likely to find people who were more collaborative and not so egotistical...

¹⁸⁸ Talanoa with LP 2, 17 February 2022; Talanoa with LP 6, 14 April 2022; and Talanoa with LP 11, 5 May 2022.

¹⁸⁹ Talanoa with LP 8, 21 April 2022.

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The above reflects the discomfort that Pasifika must endure to fit into the workplace. The legal profession can be seen as traditional and conservative and therefore an epitome of Western workplace culture. This perception influences the educational and career pathways in the law for Pasifika. Pasifika students often work in groups to discuss assignments and study for exams as a way to cope with the stress of their learning environment. Many of the student participants stated that law school sometimes discouraged working in groups, which many Pasifika students found difficult. In explaining the situation, many of the participants explained that:¹⁹⁰

In law school, Pasifika people usually come together because we have a common interest to support each other. We don't want to be in our own bubble but having each other is the only support we have, by leaning on each other and our own resources to support each other in the common spirit amongst us, the shared lived experience that we are going through, we know the challenges that we have like we are the 'experts of our own situation' and for that reason alone, there is a connectedness which is the best support we would get as students in law school because there's disconnectedness with the support services.

The above passage resonates with other participant experiences where they feel that the support services provided for Pasifika law students are what law schools *think* Pasifika students need instead of *asking* them what they need. This dissonance between user experience by Pasifika law students versus the support services provided by law schools is a further example of the disconnect between the dominant Western culture and Pasifika culture. Pasifika law students feel that they must weave a pathway forward to assimilate into that dominant culture to succeed.

The *Talanoa* data shows how participants feel about law school and the profession. For most of the participants, law schools and the profession were not inviting spaces for them to succeed.¹⁹¹ As one participant noted about their experience of being in the profession:¹⁹²

I think the hardest thing for me is overthinking... we are so conscious of how we portray ourselves to others because we want to do a really good job and we want to be equally seen as competent as our other colleagues. I think that's the hardest thing in this role. What made it worse [was] when some of the worst fears you imagined in your head could be actually true, like in terms of the automated sense of what you're capable of. I think that's the biggest barrier is not only the internal but also the external. When you're talking about things from a different point of view, you know we think very differently, if you're in a work space that doesn't or isn't really prepared for that, that could also be quite a barrier on our confidence to give some real valid, different and challenging views. Recruitment is very hard but I was lucky because I played that game. I played that game and said that I led stuff, that it was I, did stuff. I've learned now that we can't do the 'we' thing even though that's the right, that's the correct, that's the natural thing. That's a barrier too, learning how to present yourself and sell yourself.

¹⁹⁰ Talanoa with PS 1, 3 March 2022.

¹⁹¹ Talanoa with LP 1, 9 December 2021.

¹⁹² Talanoa with LP 8, 21 April 2022.

The participant's lived experience above disadvantaged him because he was in spaces where he didn't feel safe to be his authentic self. The enduring effect of this effect is his realisation that he simply denied his identity to align with the Western values and worldview. This is further exacerbated when there are few Pasifika lawyers and high attrition rates in law schools. The *Talanoa* findings reflect that role models are critical to ensure students can succeed. Some of the participants found themselves clinging to other 'brown' students when they felt isolated within their law schools.¹⁹³ This is one of the reasons Pasifika law students leave or are disinclined to engage with the law faculty.

In the *Talanoa* some Pasifika students revealed that they experienced bullying and harassment. Students faced these issues not only from other law students, but also from faculty members.¹⁹⁴ These experiences played a role in discouraging attendance and the continuing high attrition rates in law schools.

Many of these experiences are tied to experiences of racism that students have faced while at law school, which we have canvassed above. However, we want to highlight that through the *Talanoa* sessions we have received concerning stories of bullying and harassment faced by Pasifika law students. For some participants, the *Talanoa* were an opportunity to finally speak out about issues they had suppressed. Due to confidentiality and privacy, we have not gone into specific details about these issues, but want those participants to know that we have heard you and hope this report supports a shift to prevent others from facing the same experiences you went through.

Bullying is not solely limited within the law school experience but is a major concern within the legal profession. One of the findings of a 'Workplace Environment Survey' prepared for the New Zealand Law Society in 2018 was that ethnicity plays a role in bullying.¹⁹⁵ In this survey, Pasifika were identified as one of the subgroups more likely than average to have experienced bullying behaviour within the last six months of their study.¹⁹⁶ It was noted that "around a quarter of Pacific targets of bullying... perceive the bullying to be motivated by race and culture".¹⁹⁷ Recently, the Law Society also reported on the presence of sexism, sexual harassment, bullying, discrimination and other inappropriate workplace behaviour within the legal profession.¹⁹⁸ As noted above, bullying and harassment are correlated to the issues of racism and being 'othered' for being from a different cultural background. Some participants rationalised bullying and harassment on the following basis:¹⁹⁹

It's the policies they have got in place. At [legal organisation] the policies were not designed to understand my situation and my circumstances. The reason I'm relating that back to bullying is that I felt that I didn't want to work in that place and continue in that environment because policies that should be there to support me did not perform its objective. For example, asking for leave, because my Grandmother in Samoa was sick and I needed to go pick her up and bring her back to New Zealand for treatment. I was trying to ask for special circumstances leave and was told 'well it's not an immediate family member so its not covered by the policy'. So the reason I use that as an example is I got bullied to exit that environment because the policies didn't fit the specific circumstances of Pacific people;

¹⁹³ Talanoa with PS 1, 3 March 2021.

¹⁹⁴ Talanoa with PS 2, 8 March 2022; Talanoa with PS 5, 23 March 2022; Talanoa with LP 2, 17 February 2022; Talanoa with Participant 1, 24 March 2022.

¹⁹⁵ Colmar Brunton Workplace Environment Survey, Prepared for the New Zealand Law Society (Colmar Brunton, Workplace Survey, 28 May 2018).

¹⁹⁶ Colmar Brunton, above n 163 at 33.

¹⁹⁷ Above n 163, at 7.

¹⁹⁸ New Zealand Law Society Working Group, Report of the New Zealand Law Society Working Group to enable better reporting, prevention, detection, and support in respect of sexual harassment, bullying, discrimination and other inappropriate workplace behaviour within the legal profession (New Zealand Law Society, December 2018).

¹⁹⁹ Talanoa with LP2, 17 February 2022.

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The above rationalisation highlights the systemic responses which enforced exclusion of the participant. Another reasoned:²⁰⁰

There is a culture of being respectful. So when you're new in the workplace and the person employing you is treating you less than idyllic, it is quite difficult culturally to go 'hang on a minute'. That's why it's important to have a senior professional as a mentor.

The participant comment highlighted the importance of Pasifika mentorship present at all levels of Pasifika law journey. As shown above, when there is no mentors in the workplace, the participant felt helpless and isolated. Another participant's experience reflects how the toxicity within law firm environments make Pasifika susceptible to bullying:²⁰¹

Racism is where it's at. When you've got that power imbalance you are already at a disadvantage, and in my situation, I was told I wasn't going to make partner. I always managed to move up the ranks, right up to Senior Associate in a particular place, but I was told I was never going to make partner. And you give every hour that God gives you to these places and you meet the budget, you do all that kind of stuff, but it all came down to me not looking the way they wanted their next partner to look, nor did I come with the capital you needed to join the partnership in the first place. [...] In a law firm, a big part of meeting budget is getting work from your partner. So, if they are going out of their way to give that work to somebody else, then you're stuffed. That's a form of bullying and. you know it's happening, and everyone knows it's happening (especially) when they advertise the timesheets and budgets at the end of the month and your name is in red. You know those things still happen, it's that kind of stuff. So there's the outright bullying but then there are the other things that are more psychological.

200 Talanoa with LP2, 17 February 2022.

201 Talanoa with LP2, 17 February 2022.

The above comment clearly shows that even when the participant fulfilled requirements to progress in their career, they were still marginalised. As she explained, the legal profession is still very much about 'who you know rather than what you know.'²⁰² We note that speaking openly about bullying and harassment was very difficult for many legal professionals in the group *Talanoa* setting. When the topic was raised, it appeared that many practitioners were hesitant to discuss their experiences. In-person interviews may return better results for future research into the experiences of Pasifika legal professionals, particularly on the topic of bullying.

Law Schools themselves can be a monocultural and political environment, susceptible to bullying and harassment. For law graduates, and specifically for those in academia, there is evidence of bullying of new Pasifika academics by senior coordinators. The expectations and preconceived stereotypes are expressed through interactions and reflected in reactions.²⁰³ For example, the lack of consideration for personal difficulties, including ailments, is one of the challenges faced by Pasifika law faculty members.²⁰⁴ One participant noted that the expectation to continue to work when a medical certificate is produced is a demonstration of the lack of empathy and understanding that exists within law faculties.²⁰⁵ Such an attitude replicates how Pasifika law students are treated. The notion that law school must be a priority fails to consider that there are other factors which could impact performance and success. One participant who worked as a legal academic noted that they felt helpless when faced with these issues due to how entrenched the culture of bullying was by those more senior in the faculty.²⁰⁶

202 Ibid.

203 Talanoa with Participant 4, 19 July 2022.

204 Talanoa with Participant 4, 19 July 2022.

205 Talanoa with Participant 4, 19 July 2022.

206 Talanoa with Participant 4, 30 September & 4 October 2022.

e. Conclusion – Reflecting on the Journey

The findings of this qualitative research address the questions about the interventions that would assist Pasifika people and help them to succeed in law school and in the profession. Participants overwhelmingly talked about navigating the system and building resilience, as two of the most important skills used in wayfinding and overcoming the barriers they faced in their journey. The *Talanoa* participants refer to using aspirational, navigational, familial and social knowledge and understanding to navigate the New Zealand world and its legal education system and profession.

From the *Talanoa* data, it is clear that to persist and navigate law successfully, pre-law experiences must include a variety of factors, such as knowing which subjects to take in high school, obtaining high rank scores or NCEA results on relevant subjects, and drawing from the experiences of parents, family or information shared by universities in order to successfully complete their education and prepare for law.²⁰⁷

As revealed in the *Talanoa* data, many parents have made significant sacrifices to send their children to more highly resourced primary and high schools. These sacrifices include parents working two or more low-paid jobs or, in other cases, the older siblings sacrificing their education to work and support the education of a younger sibling.²⁰⁸ Pasifika peoples understand that “good schools” will prepare them for university. They see their sacrifices as an investment for the future, the family and the community. So it was unsurprising that most of the participants acknowledged that their educational attainments were to benefit the community and their family. This strong sense of respect, responsibility and love for Pasifika people gave them no option but to excel and succeed.

Most of the Pasifika student participants who had succeeded at law school had been encouraged by their family sacrifices, so they persevered by finding a way to talk to their lecturers and tutors and to work in groups for support. Most of the participants felt that at law school they were unable to connect with or relate to their non-Pasifika peers, staff, faculty and institution. However, seeing and meeting with other Pasifika persons in law school helped a great deal. More representation of Pasifika peoples at law schools helped participants to feel some connection and sense of Belonging. At the same time, because of the Pasifika sense of community, finding personal and social connections with peers, faculty and student associations provided support that allowed Pasifika students to succeed. One participant shared how validated he felt when he saw one of his lecturers wearing a hoodie with some Pasifika writing on it.²⁰⁹

The *Talanoa* data make it clear that barriers in the path of legal studies arise at school from peers, teachers, counsellors, introductory law courses, and the unwelcoming and competitive culture of law. For some Pasifika students, being told that they should not pursue law became the motivation for them to forge their path through wayfinding, drawing on the resilience derived from their aspirational and familial resources. The lack of confidence and micro-aggressions from peers, faculty and colleagues in the profession empowered these participants to resist and persevere. However, what is clearly working from the *Talanoa* data is that as a collective culture, community is how Pasifika people thrive. The community takes up and makes space for those who share a common history and values and creates a meaningful and supportive relationship. Student participants also acknowledged the names of non-Pasifika academic staff members who really helped them.

207 *Talanoa* with LP 3, 6 April 2022; *Talanoa* with LP 4, 7 April 2022; *Talanoa* with LP 6, 14 April 2022; *Talanoa* with LP 8, 21 April 2022; *Talanoa* with LP 9, 3 May 2022; and *Talanoa* with LP 11, 5 May 2022.

208 *Talanoa* with LP 2, 17 February 2022; *Talanoa* with LP 8, 3 May 2022.

209 *Talanoa* with PS 8, 30 March 2022.

CHAPTER 4: Recommendations – Fofola e Fala (Laying Out The Fine Mat)

There is a well-known Tongan expression and metaphor, *Fofola e fala kae talanga e kainga*: rolling out the mat so the family can dialogue. In the context of this project, the mat signifies the basis to bring about change for Pasifika in the law. During the *Talanoa* series, the participants were embedding in each strand the hopes they invested and the barriers they faced in legal education and practice. These strands combine to reveal the fine mat that is the pathway to increase ‘Equity, Belonging and Authority/Power’ and also to reduce barriers.

Pulling together the different strands as outlined, this chapter presents three sets of recommendations: for law schools and universities; for the legal profession; and for Government.

I. Law Schools and Universities

Recommendation 1:

That each law school and university develop a plan to ensure long-term educational equity for Pasifika students by enhancing Pasifika student retention, progression and completion in LLB programmes. This initiative aims to underscore the law schools and universities’ responsibilities to offer students an education that results in equitable outcomes for all students, including Pasifika who face particular barriers to studying law and entering the profession. An institutional strategy is vital to support Pasifika staff and improve the way law school systems perform to ensure these students gain the skills, qualifications and knowledge they require to succeed. In many law schools, the commitment to support Pasifika staff and students often depends upon the Dean’s prioritisation over other competing priorities and the law school’s management. Formalised visions with clear, tangible goals that law schools can achieve (and measure) will ensure sustainability and accountability. In particular, the law schools and universities consider the following measures and practices:

- i. Setting aside a number of discretionary admission places in law schools for Pasifika students, possibly conditional on the applicants successfully completing the pre-law programme in Recommendation 2.
- ii. Providing spaces with a distinctive Pasifika character to facilitate student networks. These networks are the critical support that Pasifika students offer to each other to help them navigate their studies. Networking with other Pasifika students helped many of the *Talanoa* participants generate a feeling of Belonging, bringing together those who understood and shared common issues.²¹⁰ In particular, the law schools and universities should continue to support and resource Pasifika student organisations with funding for their initiatives and executive positions to recognise the positive impact student organisations have on law school culture and environment.
- iii. Delivering coherent and cohesive culturally responsive support services to Pasifika students, with clearer reporting, to help meet responsibilities under the Education (Pastoral care of Tertiary and International Learners) Code of Practice 2021. Student support models for a centralised service provision model for Māori and Pasifika students should be considered and further investigated.
- iv. Providing outreach programmes and initiatives to Pasifika communities aimed at raising aspirations and academic preparation for students interested to pursue a law-related career. Outreach initiatives may adopt the model of the *Malosi Project* that is led by Pasifika law students, supported by funding from Auckland Law School and a law firm, that makes connections with high school students, teaches them knowledge and skills relevant to the law and encourages and inspires them to apply for law.²¹¹ Outreach initiatives may also include providing strong recommendations and advice to high school students on the subjects that will be helpful for their entry-level law papers, especially language-rich NCEA subjects.

²¹⁰ Talanoa with LP 2, 17 February 2022; Talanoa with LP 5, 12 April 2022; Talanoa with LP 10, 4 May 2022; Talanoa with PS 3, 17 March 2022; Talanoa with PS 7, 29 March 2022; and Talanoa with PS 8, 30 March 2022.

²¹¹ Talanoa with PS 5, 23 March 2022.

Recommendations to focus at level 2 or 3 NCEA on subjects involving text analysis, including English, history or classical studies, will be particularly useful.

- v. Coordinating with the Pacific Lawyers Association to replicate across law schools structures similar to the *Malosi Project* which is student-led and funded by a law school and a law firm. Such structures/initiatives will allow Pasifika students the necessary contact with appropriate role models so there are clear opportunities and pathways for practitioners to assist.
- vi. Developing a programme for first year Pasifika law students to help improve their familiarity with their new environment. This programme could include: introducing students to Pasifika and mainstream services, both on- and off-campus; holding welcome events to create buy-in and understanding within Pasifika families and show how they can best support the success of their loved ones; ensuring Pasifika law students have access to an academic advisor/mentor who will act as a primary contact and provide academic and pastoral support. The participants' experiences spoke strongly of these aspects as creating barriers to their success at law school.²¹²
- vii. Providing Pasifika academics and professional staff with information and advice about how they can progress within the law school.
- viii. Providing Pasifika law students with information on career pathway choices and the many routes from law school to practice and professions where they can use their law degrees.
- ix. Informing and preparing incoming Pasifika law students for the culture shock and social isolation they may experience at law school as well as the different support programmes and personnel available to them in the law school and university.

- x. Setting goals for funding and numbers of postgraduate Pasifika students to overcome barriers to access postgraduate education, and support and assist their Pasifika students with applications to undertake postgraduate law studies overseas.

Recommendation 2:

That the law schools and universities in Aotearoa New Zealand establish a pre-law programme that will help the students develop the academic skills necessary for law school within the context of a culturally relevant curriculum. This initiative aims to – develop the academic skills of Pasifika students to better prepare them for the particular challenges of studying in law school; and provide a programme of instruction on laws and legal and political processes affecting Pasifika people to facilitate an understanding of the relationship between Pasifika people and the New Zealand legal and political system. One option would be to create a pre-law programme that would provide a direct route into law school. This pre-law programme should be one year in length and comprising several courses. This pre-law programme can encourage Pasifika people to enrol in university and, in the same vein, graduates of the programme may proceed to second-year university level studies, before ultimately applying for admission to law school. Hence, the programme will have encouraged more Pasifika people to enter law school, and for those ultimately not entering law school, the programme will have provided them with valuable training and background information on legal and justice-related issues.

To implement this recommendation, law schools and universities should develop strategies to ensure all Pasifika students (who attend the pre-law programme recommended above) are provided with the financial means to do so. These strategies may include creating a bursary fund, lobbying government agencies and law firms to develop or contribute to similar bursary funds, as well as an action plan for working with the Pacific Lawyers Association to pursue these objectives.

²¹² Talanoa with PS 6, 28 March 2022, Talanoa with PS 1, 3 March 2022 and Talanoa with PS 4, 22 March 2022; Talanoa with LP 6, 14 April 2022; and, Talanoa with LP 10, 4 May 2022.

CHAPTER 4: Recommendations – Fofola e Fala (Laying Out The Fine Mat)

Recommendation 3:

That law schools and universities diversify their curricula and pedagogical practices to include Pasifika views and values. The aim of this initiative is to prepare Pasifika law students to be competent legal practitioners and professionals without having to relinquish their Pasifika cultural heritage or lose opportunities to further expand their knowledge of this heritage. In particular, law schools and universities consider the following measures and practices:

- i. Employing researchers to prepare Pasifika material and elements to use in law courses. This may include developing a handbook for common English expressions used for communication in the law profession for Pasifika students to refer to.
- ii. Establishing an Advisory Panel of Pasifika lawyers to review their curriculum and support the incorporation of Pasifika legal issues and materials. Law schools should incorporate both Pasifika legal issues and Pasifika law into the core components of the legal curriculum, for example in examining the impact of criminal law on Pasifika people in Aotearoa, as well as the impact of colonial law on the legal systems of the Pacific island states. This approach will give students a deeper understanding of the coexistence of Pasifika and non-Pasifika law and consider how the law can be a tool for subjugation. It will also provide a contextual and critical analysis of the differential impact of the law, such as the overrepresentation of Pasifika and other minorities in the New Zealand criminal justice system, and will transcend simplistic, victim-blaming explanations. The incorporation of this content could complement and support the current work that is underway for the 'Indigenising the LLB' project,²¹³ and the resolution by the New Zealand Council for Legal Education for Tikanga Māori to be incorporated into the LLB degree.²¹⁴
- iii. Placing greater emphasis on collaborative ways of learning and assessment, rather than only on individual achievements. Such shifts are mutually beneficial for law schools and students. Many *Talanoa* participants emphasised a desire for more collaborative learning methods due to their upbringing and cultural values.²¹⁵ Furthermore, such methods will prepare students for the legal profession as well as work more generally, as employers expect them to be team players in the workforce. While we recognise the individualistic and competitive environments in law firms, junior lawyers need to work collaboratively with their supervisors, other team members and clients. Hence, there is a fundamental disjunction between law schools' pedagogical approach and the profession's operational requirements.
- iv. Reviewing grading systems to include Pasifika students' competencies such as natural oratory, community networks and people skills which are key in advocating for and working with clients in legal practice.
- v. Preparing annual reports (including data) to summarise their Pasifika initiatives related to their curriculum, law school environment and progress on implementation of the recommendations in this report.

213 Ngā Pae O Te Māramatanga "Inspiring National Indigenous Legal Education for Aotearoa New Zealand's Bachelor of Laws Degree – Phase One: Strengthening the Ability for Māori Law to Become a Firm Foundational Component of a Legal Education in Aotearoa New Zealand" (Borrin Foundation, Wellington, 2021).

214 New Zealand Council of Legal Education "Te Ao Māori and Tikanga Māori" (7 May 2021) <www.nzcle.org.nz>.

215 *Talanoa* with LP 7, 20 April 2022.

Recommendation 4:

That law schools and universities continue to identify and respond to the discrimination that Pasifika law students experience. This initiative aims to acknowledge that Pasifika law students, entering law school are entering a competitive, unfamiliar environment where they are often significantly out of their comfort zone. In particular, law schools and universities should consider the following measures and practices:

- i. Educating all incoming law students as to the rationale and justification for the discretionary and targeted admission categories and how they make a positive contribution to the law school and legal profession.
- ii. Implementing a comprehensive Pasifika equity policy that sets out equity objectives and activities in the areas of admissions, curriculum, faculty recruitment and law school environment.
- iii. Continuing to promote values of anti-racism and anti-discrimination in the law school environment through educational activities such as racism workshops and cultural awareness sessions.

Recommendation 5:

That law schools and universities take active steps to support Pasifika law academics and professional staff. This initiative aims to improve the treatment of Pasifika staff within the law schools so they can thrive in academia and career progression. In particular, law schools and universities should consider the following measures and practices:

- i. Diversifying their teaching staff by creating foundational opportunities as in programmes, such as 'Susuga Faiako'/Teaching Fellow positions at the University of Auckland and Assistant Lecturer positions at VUW. These can serve as models for other law schools. Such roles provide teaching experience for Pasifika law graduates that allows them to build their research portfolio and increase the research outputs of the faculty. Mentoring and shoulder-tapping potential staff are essential here, otherwise, many may not feel confident enough to apply.
- ii. Recognising in their promotion policies and practices all of the service and leadership activities carried out by Pasifika academic and professional staff, even if not under an official title. Based on the nature of their role and their relationship with students, this often requires they go 'above and beyond' their position descriptions, risking burnout.
- iii. Recognising and supporting the work of Pasifika law academics in contributing to various efforts underway to create a multidisciplinary network among Pasifika academics and/or a Pacific Research Entity.
- iv. Embedding a sustainable Pasifika leadership structure in the law schools to empower Pasifika leadership and influence. Law schools may consider the leadership structure at the University of Auckland where an Associate Dean (Pasifika) role at the Law School has been established to lead Pasifika in supporting the Pasifika student body while contributing to the Law School's research and teaching.
- v. Appointing champions with the required skills, knowledge and passion developing innovations leading to safe learning environments for Pasifika students and staff. Staff professional development plans and performance reviews should recognise and reward such efforts.

CHAPTER 4: Recommendations – Fofola e Fala (Laying Out The Fine Mat)

Recommendation 6:

That law schools and universities utilise platforms and mechanisms that will connect and bring together the community and the legal profession to *Talanoa* so they can talk about the issues of law and justice together. For instance, the law schools (through Pasifika Legal Education Research Hub²¹⁶) can organise and facilitate a *Talanoa* series (either in person or virtually) so those in the law profession, policymakers and the Pasifika community can engage and share research ideas. These *Talanoa* platforms can provide real opportunities for the profession to grow and for law firms to have meaningful engagement and connections with the Pasifika community and members of the Pacific Lawyers Association. This should be an ongoing conversation and so the mechanism to ensure continuity is important.

II. The Legal Profession

Recommendation 7:

That the New Zealand Law Society create a comprehensive model employment equity policy for law firms to ensure Pasifika lawyers do not experience discriminatory barriers in the practice of law and to prevent bullying and harassment. This initiative aims to promote inclusive workplaces in Aotearoa and to serve as a model for adoption by law firms. In particular, the New Zealand Law Society should consider the following measures:

- i. Reviewing the Rules of Conduct to reinforce the professional obligations of all lawyers to recognise, acknowledge and promote the principles of equity, diversity and inclusion. This review should deal in more detail with the nature and extent of discrimination in the profession and the benefits of acknowledging Pasifika lawyers for their differences.
- ii. Appointing a working group to formulate the model employment equity policy, including

Pasifika and non-Pasifika lawyers and an employment equity/diversity specialist.

- iii. Providing a clear guide for good practices and promoting examples of good employment practices in the practice.
- iv. Promoting the full participation of Pasifika lawyers in the Law Society, private practice and the judiciary.
- v. Developing an action plan to encourage full implementation of anti-discrimination measures that requires firms to have anti-discrimination policies.

Recommendation 8:

That the New Zealand Law Society develop initiatives that will build better communication between lawyers and Pasifika clients. Initiatives may include developing a Pasifika protocols or toolkits for lawyers to aid in legal practice. A publication of this nature will provide relevant information for those in legal practice to be culturally attuned to the special requirements of communicating with Pasifika people, families and communities. The Pacific Lawyers Association may be consulted on activities to improve the cross-cultural awareness of members of the legal profession in regard to Pasifika peoples, families and communities and their heritage and values. The New Zealand Law Society should resource the Pacific Lawyers Association and/or legal professional course providers to provide seminars that would help to bridge the cultural divide.²¹⁷ In particular, the New Zealand Law Society should consider the following measure:

- i. Providing training programmes that would enhance law practitioners' understanding of the diverse communities that make up Aotearoa including the Pasifika communities. It is important that tolerance and understanding underpins New Zealand Law Society, with bullying and racism directly addressed by the Society as a collective.

²¹⁶ This is a virtual hub hosted by the VUW and was established under the Improving Pasifika Legal Education Project. It aims to connect Pasifika students, graduates and lawyers with academics and policy-makers. <<https://www.wgtn.ac.nz/pasifika-legal>>.

²¹⁷ *Talanoa* with LP 3, 6 April 2022.

Recommendation 9:

That the New Zealand Law Society take steps to enhance the position of Pasifika lawyers within the profession by:

- i. Advocating for Pasifika representation in positions of responsibility, such as King's Counsel, Judges of the Senior Courts, or representatives on important committees of the New Zealand Law Society.
- ii. Encouraging Pasifika lawyers to apply for judicial appointments and to put their names forward for appointment to positions of responsibility in the New Zealand Law Society.

Recommendation 10:

That the New Zealand Law Society should encourage the profession to increase the number of organisations, law firms, and in-house legal departments that offer Pasifika internships. To make real changes, law firms and legal departments should set clear goals and expectations about Pasifika representation in their organisation looks like and why they want to do it. Support programmes like *TupuToa*²¹⁸ and *Tupu Tai*²¹⁹ should be encouraged to include more opportunities for Pasifika law students; and the Government Legal Network should be encouraged to offer opportunities for Pasifika.²²⁰ Law firms can work in partnerships with law schools (preferably with Pasifika advisors) to connect Pasifika students with lawyers in the firms as mentors and introduce Pasifika law students to internship programmes in law firms, so they can make informed decisions about their future career in law.

Recommendation 11:

That the New Zealand Law Society create programmes or activities that would assist and prepare Pasifika law students for the life after law school (seeking jobs). Pasifika law students are less likely to have any connections in legal circles so, this initiative aims to facilitate greater networking and communication between Pasifika law students and the law practitioners. Such relationships may assuage the racially based assumptions about Pasifika law students' skills and abilities from potential employers. In particular, the New Zealand Law Society may consider the following measures:

- i. Creating a mentor programme to provide the Pasifika law students with a support link in the legal profession. This programme can register and pair a Pasifika law student (who is in his/her final year of the LLB programme) with a member of the profession who will provide advice, support and encouragement. Mentors may meet with their assigned Pasifika student for at least one hour each week to discuss issues of concern to the student and to provide advice on strategies the student might employ in searching for jobs.
- ii. Providing placement and internship opportunities and support for Pasifika law students. The New Zealand Law Society should appoint a full-time staff person who would be responsible for facilitating Pasifika access to legal job opportunities and to help eliminate discriminatory experiences in the hiring process. This person should work with the law schools to keep lists of Pasifika law students and law firms/organisations offering internship opportunities or would specifically interest in hiring Pasifika lawyers.

218 *TupuToa* programme is an employment pathway that provides professional opportunities for Māori and Pacific tertiary students in corporate, government and community organisations. <<https://tuputoa.org.nz/>>.

219 *Tupu Tai* programme offers internships for Pasifika students in the public sector. <<https://jobs.mbie.govt.nz/content/Tupu-Tai-Pasifika-Public-Sector-Summer-Internship-Programme/>>.

220 The Government Legal Network offers opportunities for law students in the public sector.

CHAPTER 4: Recommendations – Fofola e Fala (Laying Out the Fine Mat)

- iii. Working with private law firms to create equity hiring programmes for Pasifika law students, and conduct equity education activities for law firms in order to minimise the experience of discriminatory treatment. Such programmes should encourage and facilitate the hiring of Pasifika law graduates.

Recommendation 12:

That the New Zealand Law Society require diversity and Pasifika staff from legal service providers. In-house lawyers, both public and private, play a huge part in requiring law firms tendering for services to show their diversity policies and staff Pasifika lawyers. In particular, the New Zealand Law Society should consider the following measures:

- i. Developing plans and initiatives such as seminars or workshops, on social context education programmes on Pasifika issues. Such initiatives will help legal professionals to recognise and identify racist and discriminatory ideas, practices and comments, and to raise awareness concerning equality and anti-discrimination legal issues.
- ii. Reporting in their annual reports on the extent and progress of the implementation of the recommendations and related matters in this report.



Tuluva Claudia Futi and parents at her admission to the bar

III. Government

Recommendation 13:

That the New Zealand Government takes leadership in addressing the ongoing barriers faced by Pasifika law students and graduates in Aotearoa New Zealand. In particular, the Government of New Zealand should consider the following measures:

- i. Reviewing the current student loan and allowance policies, which currently do not adequately address the financial inequities faced by Pasifika at university and particularly at law school.
- ii. Requiring a diversity action plan within the government legal network and monitoring the implementation of this plan in the recruitment, promotion and retention of Pasifika lawyers. As clients of legal service providers, government organisations should place similar requirements of diversity and support and require legal service providers to show their initiatives in terms of inclusivity and diversity in tendering processes. Government organisations should have diversity instruction policies for counsel or barristers that are gender-sensitive and consider minorities like Pasifika.
- iii. Auditing how law schools meet their requirements to support Pasifika success, and provide a consistent funding pool to support these initiatives.
- iv. Providing scholarships to support Pasifika to pursue postgraduate studies in law. This investment can help grow a generation of Pasifika leaders who will create positive social change in Aotearoa, similar to the legacy of the Fulbright and Chevening scholarships.

CHAPTER 5: Conclusion

“In Samoa they have a saying ‘e so’o le fau i le fau’. It talks about the fine mat. There’s no amount of money that can represent the value of a fine mat. A fine mat is only strong in terms of the weaving and bringing the different strands together”. Associate Professor Luamanuvao Dame Winnie Laban²²¹

Weaving involves creating a pattern where one can follow directions. The previous chapters have pulled together the strands that reveal significant barriers within legal education and the legal profession that adversely affect Pasifika from joining these sectors and succeeding within them. The barriers identified in Chapter 3 of this report are all part of the challenges and problems we face as members of the society we live with in Aotearoa New Zealand. This findings in this chapter have shown that the school system and the legal system have not served the Pasifika people in Aotearoa well. The reasons for this may be complex and controversial but for many of the Pasifika law students and graduates, the legal education and legal system are inherently foreign to their views and values. This is exacerbated by the fact that the legal profession has not been a welcoming place for Pasifika people.

For that reason alone, this research project is a significant milestone in Aotearoa’s commitment to promote the principles of ‘Equity, Belonging, Authority/Power’ for Pasifika people. For the first time, this project, has sought out the views of – Pasifika law students, graduates, law practitioners, policy-makers, and judges – concerning the problems and barriers that they face in accessing and studying in law schools as well as working in the legal profession.

Like the creation of a fine mat, weaving a life in the law is a powerful practice: individually, a single strand – a single factor – can make limited contributions to Pasifika law students’ academic or professional success. However, several strands woven together can create systemic change. The findings of this research show that as universities evolve to address the needs of Pasifika students, they can thrive in the law school environment. This research reveals that while there is a real need to increase the number of Pasifika lawyers in Aotearoa, many challenges remain. Reflecting on the barriers students face in law school, the workforce, and the law profession, the Talanoa facilitate airing of emotions, experiences, and issues in order to begin healing. Nevertheless, as a society we can take on these issues as if they were our own. We can pledge to weave strategies, policies and practices to promote ‘Equity, Belonging, and Authority/Power’ and bring about changes for Pasifika. It is in the interests of everyone to have more Pasifika people in the law schools and law profession of Aotearoa. It is in everyone’s interest that all possible steps are taken to achieve that goal.

The Project Committee and the Researchers have used that information to analyse those barriers and to recommend initiatives and measures to overcome them. The onus now lies with the law schools and universities, the law profession, and the Government to take the next step, through discussion, dialogue and action, to ensure improving Pasifika legal education in Aotearoa, New Zealand.

²²¹ Assistant Vice-Chancellor (Pasifika), Te Herenga Waka – Victoria University of Wellington.

Annexures

Annexure A: Glossary of Pasifika terms

Alofa	In the Samoan language, the term <i>alofa</i> refers to compassion, love and empathy.
Awhina	In the Māori language, the term means helper or supporter.
E so’o le fau i le fau	This is a Samoan proverbial saying which means that a thread can’t hold its own – its strength comes from being interwoven with other threads to create the fine mat, which is the most precious in Samoan culture.
Fala	In many Pasifika dialects, the term means mat.
Fa’alavelave	In the Samoan language, the term refers to the practice involving people contributing money to large occasions such as funeral, weddings and birthdays.
Fofola	In the Tongan language, <i>fofola</i> means to lay out.
Fofola e fala kae talanga e kainga	This is a Tongan saying which means rolling out the mat so the family can dialogue.
Fono	In many Pasifika dialects, the term refers to meeting or gathering.
Komiti Poto	This is a multilingual combination of the Samoan word for group <i>Komiti</i> and Tongan for skill, <i>Poto</i> .
Moana	In the Pasifika dialects, this term refers to the great waters of the Pacific.
Na ibe	In the Fijian language, <i>na ibe</i> means the mat.
Palangi/Pākeha	These are terms used to describe non-Pasifika people who are usually European or Caucasian.
Susuga Faiako	In the Samoan language, the term <i>susuga</i> is used in addressing chiefs. In the Tongan language, <i>faiako</i> is a word used for teachers. So the words are coined together to refer to a Professional Teaching Fellow.
Talanoa	In many Pasifika languages, the word ‘talanoa’ can be referred to as a conversation, a talk, an exchange of ideas of thinking, whether formal or informal. In this report, it refers to a Pacific research methodology that focuses on understanding the meaning that events have for participants, through having conversations and building relationships with participants.
TAPA	The Targeted Admissions for Pasifika Achievement (TAPA) is the admissions pathway for Pasifika at Victoria University of Wellington into second year law, which was introduced in 2020. It aims to improve the number of Pasifika students who transition from first to second-year law.
Tauhi vā	In the Tongan language, <i>tauhi vā</i> refers to interpersonal skills.
Tauira	In the Māori language, the word ‘tauira’ refers to student or pupil.
TupuToa	This is a combination of the word <i>Tupu</i> which refers to flourishing, thriving into who you were meant to be given the best conditions and <i>Toa</i> means courage.
Tupu Tai	This is a combination of the word <i>Tupu</i> which means to grow and <i>Tai</i> which means tide in a number of Pasifika dialects.
Vaka	In many Pasifika dialects, this term refers to sailing or a canoe.
Whiria te tāngata ka puta he orange, whiria te mātauranga ka puta he tino rangatiratanga	This is a Māori proverbial saying which means by weaving people promotes well-being, by weaving the knowledge promotes excellence.

Annexure B: Academic Advisory Panel

- a. **University of Auckland**
Associate Professor Guy Fiti Sinclair (Chairperson)
Adi Litia Tuiburelevu, Dylan Asafo (alternates)

- b. **AUT**
Bridget Fa'amatuaunu

- c. **Otago University**
Alex Latu, Dr Lili Song (alternates)

- d. **Canterbury University**
Associate Professor Natalie Baird

- e. **Waikato University**
Dr Keaka Varner Hemi

- f. **Victoria University of Wellington**
Professor Tony Angelo

- g. **Massey University**
Dr Julia Ioane



Project Committee: Wiliame Gucake, Tupe Solomon-Tanoa'i, Dr Mele Tupou Vaitohi, Professor Mark Hickford, Dr Guy Fiti Sinclair

Annexure C: Practitioner/Student Advisory Panel (Komiti Poto)

Chairperson	
	Tania Sharkey Barrister, Friendship Chambers
Legal Practitioners	
	Toli Sagaga Deputy Director, Pacific Justice Sector Programme Ma'a Faletanoai-Evalu Lawyer, Public Defence Service
Student Representatives	
a. University of Auckland	Iulia Autagavaia
b. AUT	Annette Collins
c. Victoria University of Wellington	Shania, Amelia (alternates)
d. Otago University	Kane Kayem & Shani McMullan (alternates)
e. Waikato University	Jephtah Coe
f. Canterbury University	Berith Petaia



Annexures

Annexure D: Talanoa Schedule

Category	Number of Participants	Date
Fono: Law Practitioners and Professionals (LP)	LP 1 (6 Participants)	9 December 2021
	LP 2 (16 Participants)	17 February 2022
	LP 3 (6 Participants)	6 April 2022
	LP 4 (2 Participants)	7 April 2022
	LP 5 (3 Participants)	12 April 2022
	LP 6 (4 Participants)	14 April 2022
	LP 7 (2 Participants)	20 April 2022
	LP 8 (1 Participant)	21 April 2022
	LP 9 (2 Participants)	3 May 2022
	LP 10 (9 Participants)	4 May 2022
	LP 11 (8 Participants)	5 May 2022
Fono: Pasifika Students (PS)	PS 1 (7 Participants)	3 March 2022
	PS 2 (7 Participants)	8 March 2022
	PS 3 (7 Participants)	17 March 2022
	PS 4 (5 Participants)	22 March 2022
	PS 5 (5 Participants)	23 March 2022
	PS 6 (7 Participants)	28 March 2022
	PS 7 (11 Participants)	29 March 2022
	PS 8 (3 Participants)	30 March 2022
	PS 9 (6 Participants)	31 March 2022
Individuals	Participant 1	24 March 2022
	Participant 2	5 April 2022
Faculty of Law 1	Participant 3	19 July 2022
	Participant 4	30 September & 4 October 2022
Faculty of Law 2	Participant 5	1 August 2022
Faculty of Law 3	Participant 6	3 August 2022
	Participant 7	3 August 2022
Faculty of Law 4	Participant 8	19 August 2022
Faculty of Law 5	Participant 9	1 Sept 2022
Faculty of Law 6	Participant 10	15 Sept 2022
	Participant 11	15 Sept 2022





Michael &
Suzanne
Borrin
Foundation



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TE HERENGA WAKA

