

BELONGING IN LAW SCHOOL AND THE LEGAL PROFESSION: MUSLIM LAW STUDENTS' EXPERIENCES

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Despite the increasing diversity of student cohorts in Australian law schools, there is very little research on the experiences of law students from diverse backgrounds, and none that specifically focuses on Muslim law students. This article discusses the findings of a study conducted at Western Sydney University on the experiences of Muslim law students. Using a focus group methodology, it provides insight into students' perspectives on representation and belonging in law school and the legal profession. Students' sense of belonging and identity at law school may be confined to their experience of 'safe spaces', with that sense of belonging often diminishing as they transition into the legal profession. Greater consideration is needed in relation to how Islam is discussed in the Australian law curriculum, along with the need to address the intersectional challenges faced by female students who identify as Muslim.

I INTRODUCTION

Australian universities have pursued a widening participation agenda for at least 25 years,¹ and it has been claimed that Australian law schools are becoming more diverse places.² However, in Australia, while there is research on the experiences of university students with carer responsibilities,³ students with disabilities,⁴ and

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1 Tim Pitman, 'Widening Participation in Higher Education: A Play in Five Acts' (2017) 59(1) *Australian Universities' Review* 37, 37.

2 Aidan Ricciardo et al, 'Understanding, Promoting and Supporting LGBTQI+ Diversity in Legal Education' (2022) 56(3) *The Law Teacher* 307, 307–8 <<https://doi.org/10.1080/03069400.2021.1949183>>; Mark Israel et al, 'Fostering "Quiet Inclusion": Interaction and Diversity in the Australian Law Classroom' (2017) 66(2) *Journal of Legal Education* 332, 335–8.

3 Lisa Andrewartha and Andrew Harvey, La Trobe University, *Supporting Carers to Succeed in Australian Higher Education* (Final Report, March 2021).

4 Kate de Bruin, 'The Impact of Inclusive Education Reforms on Students with Disability: An International Comparison' (2019) 23(7–8) *International Journal of Inclusive Education* 811 <<https://doi.org/10.1080/13603116.2019.1623327>>.

LGBTQIA+ students,⁵ there is a notable lack of research specifically addressing the experiences of Muslim students,⁶ and none on the experiences of Muslim law students. This gap is concerning given reports highlighting a rise in discrimination against Muslims in Australia. Increased negative attitudes towards Muslims have been documented, especially since the September 11 attacks and the Christchurch Mosque massacre in March 2019.⁷ Reports from the Australian Human Rights Commission⁸ and Islamophobia Register indicate a rise in Islamophobia.⁹ The most recent *Islamophobia in Australia* report indicates that there has been a 250% increase of reported online incidents and 150% increase in offline incidents during the period between 1 January 2023 and 31 November 2024, compared to previous study periods by the Islamophobia Register between 2014–21.¹⁰ Additionally, recent discussions surrounding freedom of speech, academic freedom and research related to Palestine further emphasise the need to understand the experiences of Muslim law students in Australian universities, who are likely to be impacted by these events. They may face increased self-censorship, marginalisation or heightened surveillance, particularly when students express solidarity with Palestine or critique dominant political narratives.¹¹

While research advocates for supporting diversity at Australian law schools,¹² there is very little research into the experiences of law students from diverse backgrounds.¹³ It has been suggested that increased diversity in law schools should ideally lead to greater diversity in the Australian legal profession,¹⁴ potentially

5 Ricciardo et al (n 2).

6 Randa Abdel-Fattah, 'Negotiating Australian Academia as a Historically White Settler Colonial Institution: A Comparison between Muslim and Non-Muslim Students' (2024) 60(1) *Journal of Sociology* 138, 138 <<https://doi.org/10.1177/14407833221110929>>.

7 See Australian Human Rights Commission, *Sharing the Stories of Australian Muslims* (Report, 2021) ('*Sharing the Stories*'); Susan Carland et al, *Islamophobia in Australia: Report V 2023–2024* (Report, 2025); Andrew Markus, *Mapping Social Cohesion: The Scanlon Foundation Surveys 2020* (Report, 2021).

8 *Sharing the Stories* (n 7).

9 Carland et al (n 7) 21.

10 Ibid.

11 Jumana Bayeh and Nick Riemer, 'Palestine Solidarity and Zionist Backlash in Australian Universities' (2024) 33(3) *Middle East Critique* 435 <<https://doi.org/10.1080/19436149.2024.2334147>>; Lana Tatour, 'Censoring Palestine: Human Rights, Academic Freedom and the IHRA' (2024) 30(1) *Australian Journal of Human Rights* 106 <<https://doi.org/10.1080/1323238X.2024.2385504>>; Sara Dehm, 'Australian Universities and the "Plausible" Genocide in Gaza: What Are the Legal and Ethical Risks and Responsibilities?', *ABC Religion and Ethics* (online, 22 March 2024) <<https://www.abc.net.au/religion/australian-universities-icj-plausible-genocide-gaza/103620064>>. See generally comments by the New South Wales Commissioner on Islamophobia, Aftab Malik: Alexandra Jones and Jessica Bahr, "'Endemic and Unreported": Islamophobia "Normalised" in Australia', *SBS News* (online, 24 January 2025) <<https://www.sbs.com.au/news/article/endemic-and-unreported-aftab-malik-says-islamophobia-normalised-in-australia/a0n6s1zm7>>.

12 Ricciardo et al (n 2) 307–8; Israel et al (n 2) 335–8.

13 Ricciardo et al (n 2) 308; Sally Kift and Kana Nakano, Council of Australian Law Deans, *Reimagining the Professional Regulation of Australian Legal Education* (Report, 1 December 2021) 80–1.

14 Maxine Evers, Bronwyn Olliffe and Angela Dwyer, 'Law's Not Hard; It's Just Hard to Get into: A Study of Alternative Entry Students to Law School' (2017) 51(2) *The Law Teacher* 151, 168 <<https://doi.org/10.1080/03069400.2015.1126445>>; Naveed Khan, 'An Evolution, Not a Revolution' (2017) 91(10) *Law Institute Journal* 65.

enhancing access to justice.¹⁵ However, experience in other jurisdictions suggests that diversity in law schools does not always translate into a more diverse legal profession. Instead, it can lead to a stratified legal field where practitioners from diverse backgrounds are marginalised.¹⁶ Reports indicate that the Australian legal profession may be at risk of replicating this stratification and marginalisation.¹⁷

Against this background, we present a preliminary case study on the experiences of Muslim law students. Employing focus groups to examine the experiences of Muslim law students, we found that students' sense of belonging and identity at law school may be limited to their sense of 'safe spaces', and that their sense of belonging is significantly diminished as they consider their transition to the legal profession. Our findings suggest that greater consideration is needed in relation to how Islam is discussed and taught in the Australian law curriculum, and that there is a need to consider the intersectional challenges experienced by female students who identify as Muslim. We recognise that there is also an antecedental question concerning the inclusion of Islamic perspectives, or indeed any religious frameworks, within legal education. This inquiry falls beyond our present analysis and is acknowledged peripherally given our article's focused scope. Part II of this article explores the current research relating to the experience of Muslim students and suggests some reasons why a greater understanding of the experience of Muslim law students might be important for legal education and the legal profession. In Part III, we outline the methodology for our case study, and in Parts IV and V we present and analyse our findings. We argue that understanding the experiences

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- 15 Russell G Pearce and Sinna Nasser, 'The Virtue of Low Barriers to Becoming a Lawyer: Promoting Liberal and Democratic Values' (2012) 19(2–3) *International Journal of the Legal Profession* 357 <<https://doi.org/10.1080/09695958.2013.771125>>; Avner Levin and Asher Alkoby, 'Is Access to the Profession Access to Justice? Lessons from Canada' (2012) 19(2–3) *International Journal of the Legal Profession* 283 <<https://doi.org/10.1080/09695958.2013.771123>>; See generally, Tina McKee et al, 'The Fairness Project: The Role of Legal Educators as Catalysts for Change' (2021) 55(3) *The Law Teacher* 283 <<https://doi.org/10.1080/03069400.2020.1796061>>; Lady Hale, 'Lord Upjohn Lecture 2021: "When There Are 12"' (2021) 55(4) *The Law Teacher* 425, 425–6 <<https://doi.org/10.1080/03069400.2021.1966251>>; Dennis Foley, 'Quadrivium: So You Want to Be a Lawyer?' (2014) 8(11) *Indigenous Law Bulletin* 19; Asian Australian Lawyers Association, *The Australian Legal Profession: A Snapshot of Asian Australian Diversity in 2015* (Report, 2015) ('*A Snapshot of Asian Australian Diversity in 2015*'); Kift and Nakano (n 13) 80; Michael Kirby, 'Unmet Needs for Legal Services in Australia: Ten Commandments for Australian Law Schools' (Leo Cussen Justice Lecture, Australian Law Teachers' Association Conference, 2015) 10–16.
- 16 Lizzie Barmes and Kate Malleon, 'The Legal Profession as Gatekeeper to the Judiciary: Design Faults in Measures to Enhance Diversity' (2011) 74(2) *Modern Law Review* 245 <<https://doi.org/10.1111/j.1468-2230.2011.00845.x>>; Hilary Sommerlad et al, 'Race, Ethnicity and the Legal Profession' in Richard L Abel et al (eds), *Lawyers in 21st-Century Societies: Volume 2* (Hart Publishing, 2022) 173 <<https://doi.org/10.5040/9781509931248.ch-008>>; Hilary Sommerlad et al, *Diversity in the Legal Profession in England and Wales: A Qualitative Study of Barriers and Individual Choices* (Report, 2013) ('*Diversity in the Legal Profession in England and Wales*'); Hilary Sommerlad and Ole Hammerslev, 'Lawyers in a New Geopolitical Conjunction: Continuity and Change' in Richard L Abel et al (eds), *Lawyers in 21st-Century Societies: Volume 1* (Hart Publishing, 2020) 1 <<https://doi.org/10.5040/9781509915170.ch-001>>.
- 17 Asian Australian Lawyers Association, *Cultural Diversity Focus Groups Project: Pilot Outcomes Report* (Report, 27 October 2022) ('*Cultural Diversity Focus Groups Project*'); Jerome Doraisamy, 'Cultural Diversity Cannot Be Pushed to Backburner', *Lawyers Weekly* (online, 25 September 2020) <<https://www.lawyersweekly.com.au/biglaw/29530-cultural-diversity-cannot-be-pushed-to-backburner>>.

of Muslim law students requires acknowledging the interplay of cultural capital, Islamophobia and the sociopolitical dynamics within which educational institutions and the legal profession operate.

Mark Massoud's work on positionality encourages socio-legal researchers to explicitly acknowledge both marginalisation and privilege.¹⁸ One of the authors of this article identifies as a woman of colour and a Muslim, and many of the students' experiences in this study resonated with her own personal experiences as a law student. The other author is a white woman of Anglo-Australian heritage who does not identify as Muslim, but who attempts to adopt a sensitive and 'ally' style approach to her research relating to legal education and students from diverse backgrounds. Both authors acknowledge their position of privilege and power in relation to the students who participated in this study. As will be discussed further in this article, as both authors were academics in the School of Law at Western Sydney University ('WSU') who might teach the students involved in this study, neither of the authors conducted the focus groups, and instead we engaged members of the Muslim Legal Network to support an ethical separation of teaching practice from teaching research.¹⁹

II MAPPING THE RESEARCH LANDSCAPE: MUSLIM STUDENT EXPERIENCES IN LAW

It is well established that universities need to understand the lived experiences of students from diverse backgrounds.²⁰ Research shows that a sense of belonging and integration into a community of learners is crucial for student success.²¹ However, research relating specifically to the experience of Muslim law students in Australia is virtually non-existent. Instead, as is consistent with international

18 Mark Fathi Massoud, 'The Price of Positionality: Assessing the Benefits and Burdens of Self-identification in Research Methods' (2022) 49(S1) *Journal of Law and Society* S64 <<https://doi.org/10.1111/jols.12372>>.

19 *Muslim Legal Network* (Website) <<https://www.muslimlegalnetwork.com/>>.

20 Sophie Gilliat-Ray, *Religion in Higher Education: The Politics of the Multi-Faith Campus* (Routledge, 2000) <<https://doi.org/10.4324/9781315190495>>; C John Sommerville, *The Decline of the Secular University* (Oxford University Press, 2006) <<https://doi.org/10.1093/acprof:oso/9780195306958.001.0001>>.

21 Christine Asmar, Elizabeth Proude and Lici Inge, "'Unwelcome Sisters?'" An Analysis of Findings from a Study of how Muslim Women (and Muslim Men) Experience University' (2004) 48(1) *Australian Journal of Education* 47 <<https://doi.org/10.1177/000494410404800104>>; Megan Louise Pedler, Royce Willis and Johanna Elizabeth Nieuwoudt, 'A Sense of Belonging at University: Student Retention, Motivation and Enjoyment' (2022) 46(3) *Journal of Further and Higher Education* 397 <<https://doi.org/10.1080/0309877X.2021.1955844>>; Mi Young Ahn and Howard Davis, 'Four Domains of Students' Sense of Belonging to University' (2020) 45(3) *Studies in Higher Education* 622 <<https://doi.org/10.1080/03075079.2018.1564902>>; Lauren AJ Kirby and Christopher L Thomas, 'High-Impact Teaching Practices Foster a Greater Sense of Belonging in the College Classroom' (2022) 46(3) *Journal of Further and Higher Education* 368 <<https://doi.org/10.1080/0309877X.2021.1950659>>; Daryl G Smith and Natalie B Schonfeld, 'The Benefits of Diversity: What the Research Tells Us' (2000) 5(5) *About Campus* 16 <<https://doi.org/10.1177/10864822000500505>>. See generally Self-Determination Theory, which highlights how relatedness, autonomy and competence support students' sense of belonging: Fiona McGaughy et al, 'What Have We Here? The Relationship between Law Student Attendance and Wellbeing' (2019) 45(3) *Monash University Law Review* 695.

research in this space,²² studies tend to focus on the experience of Muslim students at university generally.

Research before the September 11 attacks found that many Muslim students at Australian universities felt they did not fully belong, despite the institutions' efforts to create inclusive communities.²³ This sense of not fitting in was often linked to how others perceived them, particularly through negative stereotypes. For example, Muslim women were often viewed as oppressed, leading to feelings of exclusion and isolation within the university environment. These perceptions underscored the need for universities to foster a more inclusive and supportive atmosphere for Muslim students.²⁴

Australian studies conducted post-9/11 reveal that most Muslim university students experience some form of religious discrimination, with female students reporting higher levels of discrimination.²⁵ Christine Asmar, Elizabeth Proude and Lici Inge's research highlighted concerns about discrimination faced by Muslim students on- and off-campus, particularly for Muslim women who wore headscarves or face-coverings, making them more visible and thus more apprehensive about discrimination.²⁶ In Asmar, Proude and Inge's survey, when asked whether teaching staff treated Muslim students the same as others, 73% of Muslim male students agreed, compared to 66% of Muslim female students. Notably, a further 24% of female students responded with 'in some ways,' compared to only 14% of male students – suggesting greater ambivalence among Muslim women.²⁷ Additionally, Muslim women often felt singled out due to their religious attire and refusal to shake hands for religious reasons.²⁸ Research suggests that most Australian Muslim university students faced discrimination based on their religious identity.²⁹ The survey conducted by Adam Possamai et al in 2013

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- 22 Benjamin B Stubbs and Margaret W Sallee, 'Muslim, Too: Navigating Multiple Identities at an American University' (2013) 46(4) *Equity and Excellence in Education* 451 <<https://doi.org/10.1080/10665684.2013.838129>>; Nisreen Alameddine, 'Supporting Muslim Students through Culturally Relevant, Responsive, and Sustaining Pedagogies' (2021) 52(2) *Canadian Social Studies* 22 <<https://doi.org/10.29173/css20>>; Mathew Guest et al, *Islam and Muslims on UK University Campuses: Perceptions and Challenges* (Report, 2020); Darnell Cole and Shafiqah Ahmadi, 'Reconsidering Campus Diversity: An Examination of Muslim Students' Experiences' (2010) 81(2) *Journal of Higher Education* 121 <<https://doi.org/10.1080/00221546.2010.11779045>>.
- 23 Christine Asmar, 'A Community on Campus: Muslim Students in Australian Universities' in Shahram Akbarzadeh and Abdullah Saeed (eds), *Muslim Communities in Australia* (University of New South Wales Press, 2001) 139.
- 24 Ibid.
- 25 Adam Possamai et al, 'Muslim Students' Religious and Cultural Experiences in the Micro-publics of University Campuses in NSW, Australia' (2016) 47(3) *Australian Geographer* 311 <<https://doi.org/10.1080/00049182.2016.1191136>> ('Religious and Cultural Experiences in the Micro-publics of University Campuses'); Adam Possamai et al, 'Muslim Students' Cultural and Religious Experiences in City, Suburban and Regional University Campuses in NSW, Australia' (2016) 38(6) *Journal of Higher Education Policy and Management* 637 <<http://dx.doi.org/10.1080/1360080X.2016.1211950>> ('Cultural and Religious Experiences in City, Suburban and Regional University Campuses').
- 26 Asmar, Proude and Inge (n 21).
- 27 Ibid 54.
- 28 Ibid.
- 29 Possamai et al, 'Religious and Cultural Experiences in the Micro-publics of University Campuses' (n 25) 319–20.

indicated that approximately 10% experienced frequent discrimination, while over 25% encountered it occasionally.³⁰

The Australian literature also explores formal support for Muslim students, including prayer facilities, formal learning experiences and student groups like the Muslim Students Association.³¹ These associations manage prayer rooms, social events and other Islamic facilities. Findings from a national study in 2000–01 revealed that only one-third of Muslim students were satisfied with the provided services and support from universities.³² In particular, it found prayer rooms to be generally inadequate, however it is important to note that given the age of this data, and the possibility of renovations since then, further research is needed to assess current conditions.³³ The study highlighted the need for dedicated prayer facilities and halal food options, with specific requirements for separate prayer spaces for women.³⁴ Regardless, the literature did not address the equality of access to prayer spaces for Muslim men and women. Overall, adequate formal support, such as sufficient prayer facilities, was shown to empower Muslim students and enhance their wellbeing.³⁵ Additionally, research by Possamai et al showed that 39 students expressed concerns about the adequacy of prayer facilities, including clean bathrooms and overcrowding.³⁶ According to Asmar, Proude and Inge's study, many Muslim students reported discomfort with the centrality of alcohol in university culture.³⁷

Studies also explore Muslim students' sense of belonging, which also links to principles of Self-Determination Theory emphasising relatedness, autonomy and competence as essential for motivation and wellbeing.³⁸ More specifically, the national study from 2000–01 found that 61% of Muslim students felt part of a learning community, 51% felt they could explore academic interests, and 31% felt they belonged to the university community.³⁹ Concerns were raised about courses built on assumptions that may not reflect Muslim perspectives, as well as the teaching of Islam by non-Muslims.⁴⁰

More recent research has applied critical race theory to explore Muslim university students' experiences in Australian higher education. Unlike studies that focus solely on institutional barriers and policies, Randa Abdel-Fattah frames her analysis by comparing the experiences of Muslim and non-Muslim students in New South Wales ('NSW'). In her study, she explores how Muslim students engage

30 Ibid.

31 Nayeefa Chowdhury, 'Presenting Islam: The Role of Australia-Based Muslim Student Associations' (2006) 26(2) *Journal of Muslim Minority Affairs* 205.

32 Asmar, Proude and Inge (n 21) 52.

33 Ibid.

34 Ibid 53.

35 Ibid.

36 Possamai et al, 'Cultural and Religious Experiences in City, Suburban and Regional University Campuses' (n 25) 643.

37 Asmar, Proude and Inge (n 21) 58.

38 See generally McGaughey et al (n 21).

39 Asmar, Proude and Inge (n 21) 53.

40 Ibid 51.

with the university as a predominantly white institution and how this affects their coping strategies and experiences.⁴¹

The lack of empirical research concerning the experiences of Muslim law students in Australia may be explained by various factors. This includes the fact that, historically, Australian law schools have not been places where students from diverse backgrounds were represented.⁴² It has been recognised that diversity in the profession and in legal education is needed to ‘reflect the multicultural and heterogeneous make-up of the Australian population, to meet diverse client needs and to promote a professional culture of respect, sensitivity, awareness and inclusion more broadly’.⁴³ However, despite this recognition, there is still ‘very little quantitative or qualitative data on diversity in Australian law schools and even less research examining how students’ diverse backgrounds and social identities ... affect their law student experiences’.⁴⁴

Another factor impacting the experience of Muslim students may be tension between religious identity and secular academic frameworks, as documented in law and religion scholarship.⁴⁵ Although this article does not examine the tensions in detail as it is beyond the scope of this article, it is important to note that many Muslim students may find themselves negotiating what scholars of law and religion⁴⁶ describe as a boundary between the secular and religious realms.⁴⁷ In this framework, secularism operates as the dominant, active force, while religion is increasingly positioned in a passive, reactionary role.⁴⁸ This creates institutionalised discomfort where Muslims must manage religious expression while establishing academic credibility. These dynamics reveal how supposedly neutral academic spaces can inadvertently require religious minorities to perform additional identity work to gain institutional acceptance.⁴⁹

It is often asserted that diversity in the legal profession has implications for greater access to justice.⁵⁰ In Australia, the need for a more diverse legal profession

41 See generally Abdel-Fattah (n 6).

42 David Weisbrot, ‘Recent Statistical Trends in Australian Legal Education’ (1991) 2(1) *Legal Education Review* 219 <<https://doi.org/10.53300/001c.6010>>; Israel et al (n 2) 335–6; Kirby (n 15) 10–14.

43 Kift and Nakano (n 13) 80.

44 Ricciardo et al (n 2) 308. See also *ibid*.

45 See generally Charles Taylor, *A Secular Age* (Belknap Press, 2007); Sherman A Jackson, *The Islamic Secular* (Oxford University Press, 2024); Talal Asad, *Formations of the Secular: Christianity, Islam, Modernity* (Stanford University Press, 2003); Salim Farrar and Ghena Krayem, *Accommodating Muslims under Common Law: A Comparative Analysis* (Routledge, 2016) <<https://doi.org/10.4324/9781315867618>>.

46 *Ibid*.

47 Sherman A Jackson, ‘The Islamic Secular’ (2017) 41(1) *American Journal of Islam and Society* 170, 175 <<https://doi.org/10.35632/ajis.v41i1.3424>>.

48 *Ibid*.

49 Farrar and Krayem (n 45) examine the extent to which secular systems have been able to and should accommodate Muslims and their religious practices. They argue that if Western societies can accommodate racial and ethnic groups, then they should also accommodate Muslims, as the ability to practice or manifest religious belief is a fundamental human right.

50 Pearce and Nasser (n 15); Levin and Alkoby (n 15); Kirby (n 15) 10–16; McKee et al (n 15) 283–4; Hale (n 15) 425–6; Foley (n 15); Khan (n 14); *A Snapshot of Asian Australian Diversity in 2015* (n 15).

has been linked to addressing access to justice for First Nations people⁵¹ and people from culturally and linguistically diverse backgrounds.⁵² There is also a link made between the need for a more diverse judiciary and public confidence in the judiciary.⁵³

It would be hoped that an increasingly diverse cohort of students in Australian law schools should lead to greater diversity in the legal profession.⁵⁴ However, the experience in jurisdictions other than Australia has been that diversity at law school has *not* necessarily translated into diversity *across* the legal profession but has instead led to a stratified profession that situates practitioners from diverse backgrounds at the margins.⁵⁵

Research from England and Wales, for example, shows that the significantly increased diversity of the student cohort at law schools over the past two decades has not led to diversity at ‘senior levels of the profession’.⁵⁶ This research examines how the intersectional impact of cultural background and socioeconomic status (‘SES’) affects students’ admission to particular law schools, and from there, entry into and participation in different strata of the legal profession.⁵⁷ Anna Chronopoulou has recently argued that, in the upper echelons of the legal profession in England and Wales ‘homosociability, the process of socialising among groups possessing similar social characteristics, including race, is promoted and reinforced’,⁵⁸ despite the recruitment advertising of large commercial law firms and the Bar purporting

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- 51 Foley (n 15). The authors wish to make clear that we are not equating the experiences of First Nations people with other minority groups. However, Dennis Foley’s article argues that increasing the number of First Nations law graduates may result in greater access to justice for First Nations people.
- 52 Khan (n 14); *A Snapshot of Asian Australian Diversity in 2015* (n 15).
- 53 Brian Opeskin, ‘Dismantling the Diversity Deficit: Towards a More Inclusive Australian Judiciary’ in Gabrielle Appleby and Andrew Lynch (eds), *The Judge, the Judiciary and the Court: Individual, Collegial and Institutional Judicial Dynamics in Australia* (Cambridge University Press, 2021) 83, 88 <<https://doi.org/10.1017/9781108859332.007>>.
- 54 Evers, Olliffe and Dwyer (n 14) 168.
- 55 Sommerlad and Hammerslev (n 16) 32.
- 56 Lisa Webley et al, ‘Access to a Career in the Legal Profession in England and Wales: Race, Class, and the Role of Educational Background’ in Spencer Headworth et al (eds), *Diversity in Practice: Race, Gender, and Class in Legal and Professional Careers* (Cambridge University Press, 2016) 198, 198 <<https://doi.org/10.1017/CBO9781316402481.007>>. See also Jennifer Barton-Crosby et al, National Centre for Social Research, *Judicial Diversity: Barriers and Initiatives* (Report, February 2023); Sommerlad et al, ‘Race, Ethnicity and the Legal Profession’ (n 16) 190–1; McKee et al (n 15) 287. The 2021 changes to the regulation of entry to practice as a solicitor via the common Solicitors Qualifying Exam (‘SQE’) were promoted as a means of increasing access to the profession for people from diverse backgrounds. See Solicitors Regulation Authority, *The Business Case for Diversity* (Report, 2018). But see Jessica Guth and Kathryn Dutton, ‘SQE-Ezed Out: SRA, Status and Stasis’ (2018) 52(4) *The Law Teacher* 425 <<https://doi.org/10.1080/03069400.2018.1534341>>; Solicitors Regulation Authority, ‘Positive Results from First Ever SQE1 Assessment’ (News Release, 21 January 2022) <<https://www.sra.org.uk/sra/news/press/2022-press-releases/results-sqe1-assessment/>>.
- 57 See generally Webley et al (n 56); Barton-Crosby et al (n 56) 20–1; Sommerlad et al, ‘Race, Ethnicity and the Legal Profession’ (n 16) 190–1.
- 58 Anna Chronopoulou, ‘Neo-tribal Sociality in the Upper Echelons of the Legal Profession: Issues of Race’ in Avis White, Patricia Tuitt and Judith Bourne (eds), *The Long Walk to Equality: Perspectives on Racial Inequality, Injustice and the Law* (University of Westminster Press, 2024) 55, 58 <<https://doi.org/10.16997/book63.d>>.

to embrace diversity and inclusion.⁵⁹ Homosociability limits access to personal contacts and networks, entrenching the exclusion of law graduates from diverse backgrounds who do not have the ‘right’ contacts.⁶⁰ Lack of access to ‘elite’ networks is also a barrier to career progression.⁶¹ The legal profession in the United Kingdom (‘UK’) is ‘fragmented’, with lawyers from diverse backgrounds being ‘under-represented in corporate firms’⁶² due to a long legacy of legal culture and networks dominated by the white, male and middle-class.⁶³ Instead, lawyers from more diverse backgrounds are concentrated in less prestigious and less lucrative areas of legal practice, smaller suburban practices and legal aid.⁶⁴ This segmentation of the legal profession has also led to a lack of diversity in the judiciary in the UK.⁶⁵

The legal profession in the Netherlands has experienced a similar pattern. Law graduates from non-Western backgrounds are actually over-represented relative to the proportion of the population of the Netherlands.⁶⁶ However ‘older native Dutch men are over-represented at the higher levels and under-represented at the middle and lower levels [of legal practice], while the reverse is true for legal professionals from ethnic minority groups’.⁶⁷ Sylvia van der Raad’s detailed study of cultural diversity in the Dutch legal profession examines the experiences of legal professionals in large city firms and the judiciary, and law students, all of whom had a ‘(perceived or actual) Islamic background’.⁶⁸ This research demonstrates the ‘othering’ of the legal practitioners in her study, because they do not meet the stereotype of the ‘ideal legal professional’⁶⁹ who is ‘a privileged male, white, and depending on the career ladder mid-thirties or mid-forties, early fifties’.⁷⁰ Despite a strong commitment by Dutch legal profession and judiciary to increase diversity, neither are ‘brimming with the much desired diversification’.⁷¹ Van der Raad argues that this is because ‘the legal sector has a specific elitist culture that is manifested in

59 Ibid 66–7.

60 Ibid 58–9. See also Webley et al (n 56) 210–12; Sommerlad et al, *Diversity in the Legal Profession in England and Wales* (n 16) 32.

61 Barton-Crosby et al (n 56) 26; Sommerlad et al, *Diversity in the Legal Profession in England and Wales* (n 16) 8, 10, 55.

62 Sommerlad et al, *Diversity in the Legal Profession in England and Wales* (n 16) 51. See also Barton-Crosby et al (n 56) 12, 24; Sommerlad et al, ‘Race, Ethnicity and the Legal Profession’ (n 16) 190–1.

63 Sommerlad et al, *Diversity in the Legal Profession in England and Wales* (n 16) 39.

64 Ibid 51. See also Barton-Crosby et al (n 56) 25; Sommerlad et al, ‘Race, Ethnicity and the Legal Profession’ (n 16) 190–1.

65 Barnes and Maleson (n 16); Barton-Crosby et al (n 56) 30.

66 Sommerlad et al, ‘Race, Ethnicity and the Legal Profession’ (n 16) 186.

67 Ibid.

68 This definition captures the following: 1) participants with an Islamic background practicing Islam; 2) participants with an Islamic background but not practicing Islam or being non-religious; and 3) non-Western participants who do not have an Islamic background, but felt they were seen as Muslim by coworkers or by their non-Islamic environment due to their foreign-looking appearance: Sylvia van der Raad, ‘Othering and Inclusion of Ethnic Minority Professionals: A Study on Ethnic Diversity Discourses, Practices and Narratives in the Dutch Legal Workplace’ (PhD Thesis, Vrije Universiteit Amsterdam, 2015) 24.

69 Ibid 246.

70 Ibid 247.

71 Ibid 20.

particular sets of values, beliefs, meanings, norms, traditions, symbols and rituals. These affect how organisational members interact and are expected to behave.⁷²

The common thread of the research in both jurisdictions is that the root cause of the stratification of the legal profession is an assumption about an ideal legal professional, in terms of cultural background, SES, education and access to cultural capital. Despite a strong commitment to improving diversity in the legal profession in these jurisdictions, the systemic ‘othering’ of legal practitioners from diverse backgrounds means that those who have traditionally held high-status positions in the profession still set the benchmark of the ideal legal practitioner.⁷³

Whether a similar stratification exists in Australia is not clear because, as noted by Sally Kift and Kana Nakano, in Australia, ‘[t]here is little research, data and/or evidence available that can provide insight into the experiences of diverse student and practitioner populations’.⁷⁴ Demographic data relating to the cultural backgrounds of Victorian and NSW barristers shows that the Bar in these jurisdictions is ‘overwhelmingly culturally homogenous’⁷⁵ and not representative of the broader Australian population.⁷⁶ This is also true of the Australian judiciary.⁷⁷ In some cases, demographic data concerning the cultural background of solicitors indicates that it is more representative of the general population.⁷⁸ However, there is, to date, no uniform method of capturing data concerning cultural diversity in the Australian legal profession.⁷⁹ In addition, the data that does exist has not captured the experiences of practitioners from culturally diverse backgrounds, nor has it explored whether there is a stratification/fragmentation of the profession similar to that in other jurisdictions.⁸⁰

One report that is often cited in relation to cultural diversity in the Australian legal profession is the 2015 ‘snapshot’ report of the Asian Australian Lawyers Association (‘AALA’).⁸¹ Whilst limited in its methodology,⁸² the 2015 report points

72 Ibid 280.

73 See, eg, Webley et al (n 56).

74 Kift and Nakano (n 13) 80.

75 Sara Dehm, ‘Legal Exclusions: Émigré Lawyers, Admissions to Legal Practice and the Cultural Transformation of the Australian Legal Profession’ (2021) 49(3) *Federal Law Review* 327, 328 <<http://dx.doi.org/10.1177/0067205x211016574>>; Ingmar Taylor and Chris Winslow, ‘Data on Diversity: The 2018 Survey’ [2019] (Autumn) *Bar News* 39. See also Duncan Buchanan, *State of the Bar Report* (Report, 29 January 2024) 39–41.

76 Opeskin (n 53) 104–7.

77 Ibid.

78 See, eg, Urbis, *2022 Annual Profile of Solicitors NSW* (Final Report, 26 May 2023) 12 (‘*2022 Annual Profile of Solicitors NSW Final Report*’) which notes that 7 in 10 NSW solicitors were born in Australia (70%) and over one quarter (30%) were born overseas. This is consistent with recent years and in line with the general population of NSW. Based on 2021 Census data, 29% of all people living in NSW were born overseas. The report further notes that ‘[t]he proportion of solicitors born in Asia is slowly increasing, with a 7% increase over the past 11 years’.

79 *Cultural Diversity Focus Groups Project* (n 17) 5.

80 *2022 Annual Profile of Solicitors NSW Final Report* (n 78) provides more granular data about the seniority, earnings, employment status, etc, on the basis of gender, but not on the basis of cultural background.

81 *A Snapshot of Asian Australian Diversity in 2015* (n 15).

82 These limitations are acknowledged in the report and include the research being based on publicly available information on law firm, Bar and court websites; identification of the cultural backgrounds

to stratification in the Australian legal profession. For example, it found that Asian Australians accounted for 9.6% of the Australian population, but only 3.1% of partners in law firms, 1.6% of barristers and 0.8% of the judiciary.⁸³

A more recent qualitative study conducted by the AALA captures the same barriers to entry and participation in certain strata of the legal profession experienced in the UK and the Netherlands.⁸⁴ The 2022 AALA study conducted surveys, focus groups and interviews with solicitors in NSW who had at least four years of post-admission experience and who identified as culturally diverse.⁸⁵ Barriers of entry into and participation in certain strata of the legal profession identified in the 2022 AALA report included a lack of mentors from diverse backgrounds,⁸⁶ exclusionary cultural norms (such as the reliance on alcohol at networking events),⁸⁷ and tokenistic initiatives of law firms to increase diversity, rather than a real commitment to a more diverse workforce.⁸⁸

Research concerning the experiences of Muslim law students in Australia, even on a small scale, might foster a better understanding of how law schools can contribute to students' sense of identity and belonging, and how law schools and the profession might collaborate to avoid reproducing the stratification of the profession that appears to have occurred in other jurisdictions. At the very least, this research can contribute to promoting 'a professional culture of respect, sensitivity, awareness and inclusion more broadly, all of which seem greatly needed'.⁸⁹ These themes informed our case study relating to the experiences of Muslim law students.

III METHODOLOGY

The authors employed qualitative methods in the form of focus groups to gather information from current WSU law students who identified as Muslim.⁹⁰ Focus group methodology was selected to attempt to capture the shared lived experiences of this group of students.⁹¹ As a self-contained method, focus groups also 'reveal the participants' experiences and perspectives that may not be accessible without

being based on surnames; the short time frame in which the research was carried out; and the data not including tribunals, in-house lawyers, academia and government lawyers: see *ibid* 5.

83 *Ibid* 4.

84 *Cultural Diversity Focus Groups Project* (n 17).

85 *Ibid* 7.

86 *Ibid* 28, 39.

87 *Ibid* 25, 39.

88 *Ibid* 26.

89 Kift and Nakano (n 13) 80.

90 This study was conducted under WSU's Student TrAnsition and ReTention ('STaRT') Umbrella Ethics Approval (H13567), 'The Experience of Muslim Law Students' (Ethics Approval Subproject No H15117): 'Research into Student Retention', *Western Sydney University* (Web Page, 10 April 2025) <https://www.westernsydney.edu.au/learning_futures/home/curriculum_renewal/academic_transition/stars/research_and_publications>.

91 Pranee Liamputtong, *Focus Group Methodology: Principles and Practice* (SAGE Publications, 2011) 4 <<https://doi.org/10.4135/9781473957657>>.

group interaction'.⁹² Focus groups are also 'suitable for examining sensitive issues and for research involving marginalised populations because people may feel more relaxed about talking about these issues when they see that others have similar experiences or views'.⁹³

The authors also ensured that this study ethically separated our teaching practice from our research relating to the student experience. As most university students are adults they are not always seen as vulnerable research subjects.⁹⁴ Nevertheless, measures should be taken to ensure that students' participation in higher education research is not influenced by 'deference to the researcher's perceived position of power'.⁹⁵ As both authors were academics in the WSU School of Law who might teach the students involved in this study, neither of the authors conducted the focus groups. Instead, the focus groups were conducted by members of the Muslim Legal Network. The Muslim Legal Network was founded in 2008 and is a professional association of Australian Muslim lawyers and law students. It arranges internships and mentoring for law students, community legal education workshops, professional development workshops for practitioners, and a legal advice referral service.⁹⁶

There were two focus groups: one for male students only and one for female students only. The facilitator of the female focus group was a solicitor who had been practising for about three years in the areas of family law, migration and domestic violence. The male focus group facilitator was a final-year law student from another Australian university. Both identified as Muslim, and both were members of the Muslim Legal Network. The aim was to make the participants feel more comfortable to participate because the focus groups were not facilitated by academics who might teach them. Gender segregation was also important to ensure that participants felt culturally and religiously safe, and this approach reflected an awareness of the cultural and religious norms within Muslim communities, where gender dynamics can shape comfort levels and communication.⁹⁷

The focus groups were also conducted once semester had finished, so that they did not clash with class time. Students were recruited from all three campuses where law is taught at WSU. Students were recruited via email through the School of Law

92 Ibid 88.

93 Ibid 107.

94 Shirley K Comer, 'The Ethics of Conducting Educational Research on Your Own Students' (2009) 13(4) *Journal of Nursing Law* 100.

95 National Health and Medical Research Council, 'National Statement on Ethical Conduct in Human Research 2023' (Statement, 2023) 17 [2.2.9]. See also at ch 4.3. See also Comer (n 94); Scott DeVito, 'Experimenting on Law Students: Why Imposing No Ethical Constraints on Educational Research Using Law Students Is a Bad Idea and Proposed Ethical Guidelines' (2010) 40(2) *Southwestern University Law Review* 285; Mark MacLean and Gary Poole, 'An Introduction to Ethical Considerations for Novices to Research in Teaching and Learning in Canada' (2010) 1(2) *Canadian Journal for the Scholarship of Teaching and Learning* 1 <<http://dx.doi.org/10.5206/cjsotl-rcacea.2010.2.7>>.

96 Muslim Legal Network (n 19).

97 See generally Shabana Mir, *Muslim American Women on Campus: Undergraduate Social Life and Identity* (University of North Carolina Press, 2014) <https://doi.org/10.5149/9781469610801_mir>; Line Nyhagen, 'Mosques as Gendered Spaces: The Complexity of Women's Compliance with, and Resistance to, Dominant Gender Norms, and the Importance of Male Allies' (2019) 10(5) *Religions* 321 <<https://doi.org/10.3390/rel10050321>>.

'vUWS' website.⁹⁸ In addition, subject coordinators of each law subject were asked to advertise this project in classes. Participants also joined by word of mouth.⁹⁹

Participants were offered a \$30 book gift voucher for participation in the focus group.¹⁰⁰ Participants were advised that they would be asked to consider the following matters during the focus groups:

- experiences as a Muslim law student;
- experiences relating to formal and informal support and networks, both at law school and in the legal profession;
- experiences in terms of representation at law school and in the legal profession;
- sense of belonging and identity at law school;
- what the WSU School of Law does well to support Muslim students; and
- ways that the WSU School of Law could improve its support for Muslim students.

The facilitators were provided with training in conducting focus groups with semi-structured questions and were provided with suggested probe/prompt questions to follow up the main themes discussed above.

There was potential for the participants to be uncomfortable or distressed discussing their experiences, particularly if the students disclosed experiences of discrimination. The students were advised in advance about the types of questions they would be asked, so that they could choose not to participate if they believe participation might cause them distress. Students were advised of support services available to them should they experience distress as a result of their participation in the focus group.¹⁰¹

Eight students participated in the female focus group. There were originally two male students who indicated that they would attend the male focus group. However, only one attended on the day, so the focus group with the male participant was conducted more as an interview with the facilitator.

98 'vUWS' is the Learning Management System used by the University.

99 This has been found to be appropriate in research of this nature, because it involves individuals 'with strong connections to the community of interest' encouraging other community members to join the focus groups and is more likely to increase participation: see Lori Peek and Alice Fothergill, 'Using Focus Groups: Lessons from Studying Daycare Centers, 9/11, and Hurricane Katrina' (2009) 9(1) *Qualitative Research* 31, 35–6 <<https://doi.org/10.1177/1468794108098029>>.

100 The value of the gift voucher was such that it was not likely to influence students' decision to participate in the research but was a symbol of the authors' respect for the investment of time to participate in research: see Liamputtong (n 91) 55–7.

101 These included the WSU's free counselling service, Hayat Line (a Muslim community Counselling service), the Centre for Muslim Wellbeing, Beyond Blue and Lifeline. Participants were also advised that they could withdraw from the focus group meeting if they experienced distress, but that the information they had provided up to that point could not be withdrawn from the study, because it involved a focus group. The facilitators of the focus groups were alert to the possible need to interrupt the discussion if the conversation moved into risky areas and for signs of participant distress. In addition, the facilitators were made aware of services available to students and were instructed that, if a student disclosed an instance of discrimination on campus, to acknowledge the significance of the event. The facilitators were also advised to approach the student after the focus group, to ask if the student would be comfortable with the researchers being provided with details of the event and/or the student's details to ensure that the event is appropriately followed up and investigated. As there was no instance of discrimination on campus disclosed during the focus groups, this was not necessary.

The focus groups were conducted online via Zoom. This is now a well-established method of conducting focus groups.¹⁰² The focus groups were video recorded, so that the different speakers could be identified when the video was transcribed. To support de-identification, participants were asked to use a pseudonym for their Zoom ID to participate in the focus group.

The video recordings were transcribed by a professional transcription service and conventional qualitative content analysis was employed to code the data¹⁰³ using NVivo software.

At the commencement of the focus groups, the participants were asked to share some basic information about themselves, if they felt comfortable doing so. This information is set out below:

Table 1: Background Information of Consenting Focus Group Members

Female focus group	Background information shared with group
Student A	Studying Bachelor of Business/Bachelor of Laws, with a major in Economics in her Business degree. In third year of a five-year degree.
Student B	Studying Bachelor of Accounting/Bachelor of Laws. Mature-aged student from Afghanistan.
Student E	Just completed Bachelor of Law/Bachelor of Business majoring in Accounting.
Student F	Studying Bachelor of Laws/Bachelor of Communications, with major in Public Relations in Communications Degree.
Student M	Studying Bachelor of Laws. Mature-aged student with three children.
Student O	Studying Bachelor of Business/Bachelor of Laws. Has nearly completed her degree. Background is Fijian Indian.
Student S	Did not provide background details.
Student Z	Studying Bachelor of Laws (graduate entry). Has nearly completed her degree. Mature-aged student. Hoping to practice in the areas of family law and dispute resolution.
Male participant	Background information shared with group
Student J	Studying Bachelor of Laws/Bachelor of Business majoring in Finance. In final semester of degree. Has studied full time.

102 Michelle M Falter et al, 'Making Room for Zoom in Focus Group Methods: Opportunities and Challenges for Novice Researchers (during and beyond COVID-19)' (2022) 23(1) *Forum: Qualitative Social Research* 21:1–27 <<https://doi.org/10.17169/fqs-23.1.3768>>; Lekshmi Santhosh, Juan C Rojas and Patrick G Lyons, 'Zooming into Focus Groups: Strategies for Qualitative Research in the Era of Social Distancing' (2021) 2(2) *ATS Scholar* 176 <<https://doi.org/10.34197/ats-scholar.2020-0127PS>>; Scott B Greenspan et al, 'Use of Video Conferencing to Facilitate Focus Groups for Qualitative Data Collection' (2021) 5(1) *American Journal of Qualitative Research* 85 <<https://doi.org/10.29333/ajqr/10813>>.

103 Hsiu-Fang Hsieh and Sarah E Shannon, 'Three Approaches to Qualitative Content Analysis' (2005) 15(9) *Qualitative Health Research* 1277 <<https://doi.org/10.1177/1049732305276687>>.

IV FINDINGS

The themes which emerged from our analysis, and which will be discussed in this article, were:

- diversity at the WSU School of Law as an advantage;
- concerns about the transition from law school into the profession;
- subject and co-curricular experiences in law school; and
- gendered discrimination and intersectionality.

A Theme 1: Diversity at the WSU School of Law as an Advantage

The diverse student cohort at the WSU School of Law is representative of the diversity of WSU generally and of the community in which WSU is located. WSU's campuses are situated in the fastest growing region of greater metropolitan Sydney,¹⁰⁴ with the third largest economy in Australia.¹⁰⁵ Western Sydney is an extremely culturally diverse region, with 40.9% of people born overseas¹⁰⁶ and 45.7% speaking a language other than English at home.¹⁰⁷ WSU pursues a widening participation agenda 'to champion higher education and make it accessible for all who want to pursue it'.¹⁰⁸ Programs to encourage widening participation include programs which target First Nations students,¹⁰⁹ students from Pasifika communities¹¹⁰ and students from refugee and new and emerging communities.¹¹¹ These programs commence as early as primary school and are maintained throughout students' high school years.¹¹² Demographic data relating to WSU's first year law cohorts from 2018–21 indicated that that 45% of students were from low-SES areas,¹¹³ 35% were from culturally and linguistically diverse backgrounds,

104 Phillip O'Neill, Centre for Western Sydney, *Where Are the Jobs? Part 1: Western Sydney's Short-Lived Jobs Boom* (Report, 2020).

105 'About Greater Western Sydney', *Western Sydney University* (Web Page, 11 July 2022) <https://www.westernsydney.edu.au/rcegws/rcegws/About/about_greater_western_sydney>.

106 'Western Sydney (LGA): Birthplace', *.idcommunity* (Web Page) <<https://profile.id.com.au/cws/birthplace>>.

107 'Western Sydney (LGA): Language Used at Home', *.idcommunity* (Web Page) <<https://profile.id.com.au/cws/language>>.

108 'School Programs: Widening Participation', *Western Sydney University* (Web Page) <<https://www.westernsydney.edu.au/schools-engagement/connecting-with-western/school-programs>>.

109 'Aboriginal and Torres Strait Islander Student Success', *Western Sydney University* (Web Page) <<https://www.westernsydney.edu.au/future/student-life/aboriginal-and-torres-strait-islander-student-support>>.

110 'Pasifika Achievement to Higher Education (PATHE)', *Western Sydney University* (Web Page) <<https://www.westernsydney.edu.au/schools-engagement/connecting-with-western/school-programs/pathe>>.

111 'Refugee, New and Emerging Communities: Years 9–12, Current Students', *Western Sydney University* (Web Page) <<https://www.westernsydney.edu.au/schools-engagement/connecting-with-western/school-programs/refugee-new-and-emerging-communities>>.

112 See, eg, 'First Foot Forward: Years 5–6', *Western Sydney University* (Web Page) <<https://www.westernsydney.edu.au/schools-engagement/connecting-with-western/school-programs/first-foot-forward>>; 'Fast Forward: Years 9–12', *Western Sydney University* (Web Page) <<https://www.westernsydney.edu.au/schools-engagement/connecting-with-western/school-programs/fast-forward>>.

113 WSU bases low-SES status on the students' postcode of permanent home residence within the SES value derived from the Postal Area Index for Education and Occupation, in the Australian Bureau of Statistics 2016 Census Socio-Economic Indexes for Areas: see Western Sydney University, *The Year in Review: Volume 1* (Annual Report, 2020) 55 tbl 7; Australian Bureau of Statistics, *Census of Population and Housing: Socio-Economic Indexes for Area (SEIFA), Australia, 2016*

39% were the first in their families to attend university, 53% had not entered their law course directly from school, and 10% entered their law program through vocational training, rather than the completion of formal high school education.¹¹⁴

The fact that the WSU School of Law is a microcosm of the broader community in which WSU is located appears to have been a significant factor which supported the students' sense of identity and belonging. Student A spoke in positive terms about that fact that there were 'a lot of other Muslim students'¹¹⁵ at WSU and students overall felt that the diverse student cohort at WSU generally provided them with a sense of connectedness. Student B speculated that she might feel 'alienat[ed]' and out of her depth at another university:

Hypothetically, if I was at another university and if I was in a learning situation where there wasn't much diversity, like let's forget about Muslim law students, if there wasn't much diversity in terms of male, female or like different cultures and what not, then you sort of have this sort of alienating feeling, where it's like '*am I in way over my head?*' because some demographics are more outspoken than others, some of them learn in different ways and are more high content in a sense...¹¹⁶

Other students drew on experiences of family and friends at other universities to contrast their positive experiences at WSU:

Student S: I was just going to say, I've got friends that attend other unis and they're not doing law, per se, but they are doing very competitive fields like law and they've said that at their university they find that, as being a Muslim, they're like one of the few in their classes and in their units and no matter what unit they take, they walk in and everyone is just like kind of almost staring and alienating them and they find that it's a bit intimidating and it's like 'do I belong here[?]'. So I find that it's different [at WSU].¹¹⁷

Student Z: Now I do have a child who's at another university who did their first year at Western Sydney and there is a very big culture difference in a different field. She's not studying law, but another really competitive field and it is more male dominated and even in the atmosphere, a lot less multicultural and whilst there are advantages of doing certain degrees at certain universities, definitely there was a clear distinct difference between her experience at Western Sydney and elsewhere, and obviously me doing my second degree here, I can definitely agree with that perspective...¹¹⁸

(Catalogue No 2033.0.55.001, 27 March 2018) <<https://www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/2033.0.55.0012016?OpenDocument>>.

- 114 Anna Cody and Sandy Noakes, 'Valuing Diverse Students: An Ethical Response to Building Success in First-Year Law Students and Broadening the Legal Profession' (2022) 25(1–2) *Legal Ethics* 64, 72 <<https://doi.org/10.1080/1460728x.2023.2208964>> ('Valuing Diverse Students'); Sandra Noakes and Anna Cody, 'Building a (Self) Reflective Muscle in Diverse First-Year Law Students' (2022) 32(1) *Legal Education Review* 69, 88 ('Building a (Self) Reflective Muscle'). This data supports the findings of a 2016 earlier report concerning the make-up of the student cohort in the WSU School of Law, which found that it was 'more diverse and socio-economically disadvantaged than ... in traditional law schools, with a high incidence of students from low socio-economic status backgrounds, who are first in family to attend university and who speak a language other than English at home', and that 12% of students entered the law degree at WSU via a vocational education and training pathway: Michelle Sanson, *WSU Law First Year Review* (Consultation Paper, June 2016) 43.
- 115 Interview with Students A, B, E, F, M, O, S and Z (Muslim Legal Network, Female Focus Group, 23 November 2022) (unpublished, copy on file with authors) ('Female Focus Group Interview').
- 116 Student B, 'Female Focus Group Interview' (n 115) (emphasis added).
- 117 Student S, 'Female Focus Group Interview' (n 115).
- 118 Student Z, 'Female Focus Group Interview' (n 115).

Student J, the male participant in the focus group, stated that the diversity of the student cohort at WSU and in the law school meant that he did not think of himself as a ‘Muslim law student’ but as a ‘law student who is also Muslim’:

[W]hen I first decided to come to WSU obviously it was getting the offer into the law school and I was prepared to take the offer for many [reasons], but I was glad that it came from WSU because I knew generally it’s more diverse and at the other university I was aware of, for example, the [other university] a few years ago where the prayer room got thrashed and lots of students were verbally and sometimes physically abused on campus and assaulted on campus, I never had that worry even coming so that, even as a high school student, my perception was *coming to the WSU law school is somewhere I will be safe and can just worry about study*. So ... where I’ve said *I wanted to be a law student who is also Muslim, I think that WSU Law School’s generally welcoming attitude has allowed for me to have that happen and still be a practising Muslim whereas actually if I was at a different law school I would have had to hide my religion to be safe on campus or not be, if I didn’t want to hide I would be able to face the consequences, and that’s never been a consideration here at WSU*. I can show as much as I want or not at all. Safety is not a concern or vilification is not a concern ...¹¹⁹

However, while the students’ sense of belonging and identity was supported by the diversity of the cohort generally, they were far more circumspect about their sense of belonging as they transitioned into the legal profession.

B Theme 2: Transition from Law School to Profession

Students in the focus groups, and particularly the mature-aged female students, were anxious about their transition from law school to the legal profession. These students felt that the high level of support they received at law school was not as overt once they began their pathway into the workforce. They also noted that their responsibilities as carers prevented them accessing opportunities for paralegal work, clerkships and internship opportunities because, ‘our second job is the home and is taking care of three children at different stages of life and so forth’.¹²⁰

The discussions in the focus groups revealed that students were keenly aware of the disjunct between their sense of belonging and identity at law school, and their sense of belonging and representation in the legal profession:

Student O: I’m at the end of my degree, looking at that representation outside of law school, I don’t see it as much, *especially in traditional firms*. It’s very hard to find somebody that really reflects you, especially when you’re ethnic and identified ethnic and Muslim, like the two, you’re not really fitting into the Eurocentric standards of tradition firms, because when you’re looking at ‘yes there is diversity in these firms’, *but it only goes up to Associate Graduate, Associate, you don’t see it in the partner of the directory board*, like that kind of thing...¹²¹

Student A: ... when you go out [into the profession] ... they’re not the kinds of environments that we’re really comfortable with going to. So it’s sort of like that disconnect between feeling supported here [at law school] but then once you’re out in the big bad world, it’s like you have to turn down events. Personally I would turn down events where there’s wine or alcohol involved etc. So you kind of feel it’s

119 Interview with Student J (Muslim Legal Network, Male Focus Group, 23 November 2022) (unpublished, copy on file with authors) (emphasis added) (‘Student J Interview’).

120 Student Z, ‘Female Focus Group Interview’ (n 115).

121 Student O, ‘Female Focus Group Interview’ (n 115) (emphasis added).

easy to get alienated if you're not really surrounded by your people ... once you're in environments where you don't have as much access to other likeminded people from the same culture, same religion essentially, because unless you go into one of those firms that's Muslim dominated, owned by Muslims and what not, if you're thinking more of like corporate, the really high-class sort of firms, then that's sort of what you have to expect going into it, that you might not always feel like you belong but you kind of have to make peace with that and just be like 'okay, why am I in this field to begin with? Is it to be liked by everyone? Should I just put my head down, do my thing and then go home?' There's just sort of like this inner struggle, that it's like 'why am I here?'¹²²

Students indicated that they were aware of the importance of 'networking' to secure employment, but pointed to barriers to networking opportunities and concerns about tokenism, as two obstacles to their sense of belonging in the legal profession:

Student F: ...[s]ometimes a disadvantage would sort of be sometimes with major law [networking] events or where to meet [members of the] legal profession, sometimes the events aren't at places that I could go to. *So as a Muslim girl, I wouldn't be able to go to those places where you can connect with big people and you can get to know different people and be able to have that connection for a future job. I wouldn't be able to go to those places to meet those people. So I guess other people do have an advantage on me ... I feel like we are so disadvantaged because we don't have that life. Because where do most legal professionals meet? At a bar. Or like where are most of their events? At a bar. That's how they communicate with others. That's how others get to the job or get to where they want to. But as me, as a Muslim student, as a female, I wouldn't be able to go to those places and so I guess I'm somehow disadvantaged ...*¹²³

Students expressed scepticism about employers who sought out Muslim law graduates to appear more 'diverse', but did not necessarily have a genuine commitment to supporting Muslim lawyers:

Student F: ... sometimes [employers] prefer to have that diverse, to have an Islamic background or just like a different cultural background to be able to seem diverse in whatever legal profession ... I'd say sometimes *in order to have that image and look diverse for many big companies*, they will hire you just to have that image of themselves ...¹²⁴

Student S: ... I've been to a legal event and once they realise that I'm a Muslim I've heard them say '*Oh, that's so brave of you*' and '*that's so courageous*'. I didn't want to say anything, but I was thinking 'had I have been in another religion would you say the same thing? Is it because I am a female and I am a Muslim? Is that why you're thinking that?' It depends, like Student F was saying, different companies do it, so they look a bit more multicultural ...¹²⁵

One participant in the female focus group observed that they had noticed the emergence of 'Muslim law firms' and the student perceived this as an advantage for them in terms of potential future employment. However, her enthusiasm was tempered by her observation that being a female Muslim lawyer was seen as an advantage only for certain areas of legal practice:

122 Student A, 'Female Focus Group Interview' (n 115).

123 Student F, 'Female Focus Group Interview' (n 115) (emphasis added).

124 Ibid.

125 Student S, 'Female Focus Group Interview' (n 115) (emphasis added).

Student Z: It is nice and it is inspiring to see a lot more Muslim women specifically in the profession and a lot of firms that are all Muslim women or majority Muslim lawyers and half of them to be women, although I do, when you see the opportunities you see coming across, I do feel that there is somewhat an advantage, which is not the reason why I want to go into it, but in family law or dispute resolution, it's welcomed. Anything to do with any multicultural background ... helps in those sorts of fields because there is a demand obviously in that. So there's that aspect as well, I suppose, which is encouraging for the profession ...¹²⁶

C Theme 3: Fostering a Sense of Belonging and Islam in the Curriculum

A theme emerging from the student focus groups was the need for improvements in the way that Islamic law and topics pertaining to Muslim communities are taught in the law school curriculum. For instance, Student J (male participant) provided positive feedback for the subject 'Islam, Human Rights and International Law' taught at the WSU School of Law. However, this student argued that there should be a stronger emphasis on distinguishing between culture and religion throughout the curriculum:

I think they've started to bring in like the study of Islam and how that interacts with laws into units. I did a unit *The Human Rights International Law* [sic]. We looked at human rights in the context of Islam and I felt that was really good progress, that it offers an objective view where it goes more in-depth into Islam rather than a 10- or 15-minute discussion where there's no class materials assigned to it. Having said that though, there was not still enough of a distinction in that unit and other units about the distinction between culture and religion and the impact that has on both culture and religion on the laws in Muslim majority nations ...¹²⁷

Student J further noted a general lack of awareness among students regarding the diversity of views within the Muslim world. He argued that it is essential to recognise that the experience of being a Muslim and the interpretation of Islamic law can vary significantly depending on the country of origin, cultural background and individual perspectives:

I think there was a general lack of awareness, amongst students at least, that just because, like a country may call this the Sharia Code doesn't necessarily mean that it is part of the religion but it's the culture and religion in that particular country has affected that that has gone to create whatever laws that is and I think there needs to be more work done across the board when having discussions to recognise that 'I come from one part of the world and the experience of being a Muslim from that part of the world and a Muslim from that part of the world in Australia maybe vastly different to someone who comes from a different country or even a country neighbouring mine, the country of my parents'. I think there's just not enough acknowledgment of the diversity of views ...¹²⁸

However, while it is crucial for the law school curriculum to embrace the diversity of views within Islamic law and the Muslim community, Student E commented on the important role of curriculum in dispelling stereotypes and providing a nuanced understanding of Islam:

126 Student Z, 'Female Focus Group Interview' (n 115).

127 'Student J Interview' (n 119).

128 Ibid.

[G]oing back to the point about having a unit for Islamic and International Law, I feel like not only just getting the views of non-Muslim students, but also just because one thing that we do know is that Islam, our religion does have some stigmas around it, it does have some stereotypes around it, Muslims have stereotypes around them. I think having a unit there that actually gives core knowledge of the religion is really a good insight for people that have no idea and probably go off the norms and the stereotypes. So that's really good in that sense of like as a representation than what I think even Muslims can be, because I wouldn't say I'm the best representation of my religion. I try my best to be, but I wouldn't say I'm the perfect representation, but I think studying a course that's giving the right guidance of what our religion is, is definitely a lot more better [sic].¹²⁹

Students in our case study also saw potential for discussions of Islam to be incorporated into subjects such as family law, criminal law and dispute resolution in a way that was culturally sensitive. Student A also emphasised the importance of being aware of the dominance of whiteness in the core law school curriculum:

[T]here was even this one unit that I did in first year, which was Legal Analysis and Critique and it was basically introducing us to different legal jurisprudence, ways of thinking, theoretical frameworks that make up Australia Law, obviously it would make sense for it to be Eurocentric, but I thought it would be really interesting if they had have added something to do with Islamic law or even Eastern, because we had a golden aged period as well and we have really interesting and insightful ways of thinking when it comes to approaching law. So I think it would have, even not for Muslim students, it's just a more holistic idea, instead of just focusing on European ways of thinking, if that makes sense.¹³⁰

D Theme 4: Gendered Discrimination and Intersectionality

The female students in our focus groups discussed the intricate interplay of identity, perception and professional settings. It is important to acknowledge that the experiences of Muslim students vary significantly, with the extent of discrimination or marginalisation they encounter being shaped by various factors, such as personal presentation, cultural heritage and geographical context. Student Z observed:

I'm not necessarily easily identifiable. People don't normally assume I'm Lebanese or Muslim, but even when they do find out, I've never had an issue with that and surprisingly in the law, I do agree, I find that there's more women studying law now so even more of my colleagues are women, whether they're Muslim or otherwise, so I haven't really felt a difference.¹³¹

On the other hand, Student A's experience provides a distinct perspective that underscores the impact of visibility on the experiences of Muslim students. Although Student A's experience is positive overall, as someone who wears the headscarf, her experience is arguably 'racialised' in the way that she is perceived by others:

Student A: In terms of my community, I'm one of the only people from my family who's female, Muslim scarfed, going to Law School, so it's sort of brought up a couple of *raised eyebrows* ... But on the whole it's not like something that's ...

129 Student E, 'Female Focus Group Interview' (n 115).

130 Student A, 'Female Focus Group Interview' (n 115).

131 Student Z, 'Female Focus Group Interview' (n 115).

because I feel like nowadays the thing with basically all fields, nothing's kind of boxed into like 'you can only go do this if you're ticking off this criteria'. Like it's not just we only have teachers and arts and these kinds of options available to us. So even if it does raise some eyebrows, it's not something that's out of the ballpark, you know.

Facilitator: So what I'm hearing you say is the visibility aspect of being at a university, where others are visibly Muslims, has been of noteworthy importance to you?

Student A: Yeah, it has for sure. Because if you're coming from your family and community, it's kind of raising eyebrows, but then when you're actually going there you're seeing something else. So it sort of fills in a gap and it helps you, yourself, sort of enjoy experiencing studying and makes you feel more connected, not only to the Muslim Law students, but because it's very diverse. I would say it's a good experience overall ...¹³²

The crucial need to address intersectionality was also highlighted in the comments of Student B:

I'm a single parent and it was very hard for me as I am a new English speaker ... I talked with the peer services and I talked with some unit coordinators and they suggested for me to go ahead with the accounting subjects and then coming back and doing the law subjects ... I told my situation to the welfare and they gave me the AIP that is helping me with extension for my exams ... I think the service of Western Sydney University is amazing. It's really helped me.¹³³

In the context of the legal profession in the United States ('US'), Bethool Haider examines judicial systems and court decisions that reflect both implicit and explicit forms of Islamophobia and Orientalism, particularly in how Muslim women wearing headscarves are treated within the legal profession.¹³⁴ Haider contends that these women are often expected to conform to a neutral workplace identity, which may conflict with their personal, religious and social identities, illustrating what she terms as 'bleached out professionalism'.¹³⁵ She advocates for creating inclusive spaces where veiled Muslim women can speak openly about their gender, religion and identity, challenging preconceived notions of oppression and allowing them to define their own professional presence.¹³⁶ This approach, she argues, not only promotes autonomy and diversity but also facilitates greater inclusion of Muslims in professional environments traditionally closed off to them.¹³⁷ Our research also indicates that students view representation as important in these traditionally 'closed off' environments. Student F noted:

... there's been a lot of representation like in the days. Like now you see female with a Hijab, I think she works at Stirling Legal in Auburn, she became a magistrate in the Court ... I just see her on Instagram and a lot of other lawyers within the western Sydney areas that have represented with the Hijab on in Court, and that leads to

132 Student A, 'Female Focus Group Interview' (n 115) (emphasis added).

133 Student B, 'Female Focus Group Interview' (n 115).

134 Bethool Zehra Haider, 'Asking the Muslim Woman Question: Understanding the Social and Legal Construction of Muslim Women' (2023) 38 *Berkeley Journal of Gender, Law and Justice* 81, 103–8 <<https://doi.org/10.15779/Z38X921K6B>>.

135 Ibid.

136 Ibid.

137 Ibid 108.

something, like this is a good thing for us, this is the start because I can't imagine what it would have been like, let's say 30 years ago, if a Hijab lawyer would have walked into a court to represent someone.¹³⁸

1 Intersectionality and Classroom Engagement

Research identifies gender gaps in classroom engagement at law schools, where women tend to participate less frequently, leading to adverse effects on their overall law school experience and subsequent career outcomes.¹³⁹ This is relevant for Australian legal education where class participation has been identified as an important tool for student engagement and learning.¹⁴⁰ The intersectional impact of gender and faith on classroom engagement was evident in our focus groups. Student J commented on how he responds to the representation of Islam in class discussions. He indicated he was quite vocal in correcting misconceptions of both academics and student peers:

I think it's not just actually limited to law students. I think some of the lecturers or the tutors that I've had in class as well, sometimes tend to do that as well and it can be because, for example, we are searching and looking at a country that has, it might be Muslim majority and has for example like human rights violations or things that are not the social norm in Australia. So I think I have often felt the need to say, 'When we are talking about this you have to please be mindful that you're talking about the situation in that particular country', because very quickly ... although it's more students than lecturers that do this, but very quickly it can devolve into 'well yes that's because Islam says or that's what Muslims say'. There's no real appreciation of there is a difference between Islam religion and the local culture that binds together and how that affects it.

There is, I think, a great lack of nuance and I often feel the need to just sort of point that disclaimer out, like 'no, it's not a monolith'. We're talking about over a billion people so it's actually not a monolith and let's make the discussion, keep that mind when having this discussion.¹⁴¹

In contrast, Student B's reflections indicated that she was not as willing to vocalise her views and, in fact, classroom discussions in relation to Islam led her to question aspects of her faith and potentially impacted her mental health:

I just was deeply thinking about Islam sometimes when I'm sitting in law classes and discussing about the issue, that is conflicted with our religion. For example, when talking about the women's rights ... It's causing me to fundamentally question about the religion, that is sometimes I feel like what way is correct, you know ... Going deep down it's causing maybe mental health issue or something because or religion also they say 'don't think too much, go deep into some things' because if you keep thinking ... it is not good for the Muslim people to just keep repeating something that doesn't have an answer. When I'm in law classes it's causing me that, the feeling that what I believe is true or not.¹⁴²

138 Student F, 'Female Focus Group Interview' (n 115).

139 Kenneth Khoo and Jaclyn Neo, 'Gender Gaps in Legal Education: The Impact of Class Participation Assessments' (2023) 20(4) *Journal of Empirical Legal Studies* 1070 <<https://doi.org/10.1111/jels.12372>>.

140 Anna Huggins and Alex Steel, 'The Relationship between Class Participation and Law Students' Learning, Engagement and Stress: Do Demographics Matter?' in Rachael Field, James Duffy and Colin James (eds), *Promoting Law Student and Lawyer Well-Being in Australia and Beyond* (Routledge, 2016) 67, 67.

141 'Student J Interview' (n 119).

142 Student B, 'Female Focus Group Interview' (n 115).

V DISCUSSION

A Diversity at Law School: An ‘Advantage’?

Often, when the issue of diversity at law school is discussed, the focus is on *access* to law school for students from diverse backgrounds.¹⁴³ What is often overlooked in these discussions is that the responsibility of law schools in relation to students from diverse backgrounds does not end once the student gains entry to law school; this is really where the responsibility begins.¹⁴⁴ It is apparent from the responses in this study that the students’ sense of belonging at law school was supported by the diversity at WSU more generally.

As legal educators, the students’ reflections about the diversity at WSU generally initially provided us with some reassurance that they derived a sense of belonging and identity from the fact that WSU, and its School of Law, was more representative of them; that the diversity of the student cohort generally made them ‘feel more connected’¹⁴⁵ and the fact that they were not the only visibly Muslim students contributed to their sense of confidence. However, we have been challenged by Abdel-Fattah’s research in relation to the experiences of Muslim and non-Muslim students in Australian universities, and in particular her observations about the possible source of this sense of comfort and identity.¹⁴⁶ Abdel-Fattah notes the observations of one Muslim student in her study, Shahinda, who chose to study law at WSU rather than accepting a place at the ‘more prestigious’ University of Sydney. Shahinda indicates that she chose WSU because she perceived she would be less likely to be subject to racism and abuse if she stayed in Western Sydney.¹⁴⁷ Drawing on Rhonda Itaoui,¹⁴⁸ Abdel-Fattah observes that a student’s decision not to venture beyond Western Sydney may occur because racism has limited their choice to spaces that they already know, and that the ‘anticipation of racism therefore creates “inventories of the spaces of fear” among racialised minorities’ outside of these safe spaces.¹⁴⁹ The comments from the students in our study indicate that, where their friends or family members *had* ventured beyond WSU, they experienced exactly the type of alienation that students in Abdel-Fattah’s research anticipated they might experience. As legal educators, we need to interrogate whether the level of comfort and sense of belonging experienced by Muslim students may in fact limit their choices and options if they do not venture outside their ‘safe spaces’.

This critical reflection is important because, as demonstrated by our findings, while the students had a strong sense of belonging and identity at WSU, their sense

143 Kift and Nakano (n 13) 80.

144 Cody and Noakes, ‘Valuing Diverse Students’ (n 114) 65.

145 Student A, ‘Female Focus Group Interview’ (n 115).

146 Abdel-Fattah (n 6).

147 Ibid 147.

148 Rhonda Itaoui, ‘The Geography of Islamophobia in Sydney: Mapping the Spatial Imaginaries of Young Muslims’ (2016) 47(3) *Australian Geographer* 261 <<https://doi.org/10.1080/00049182.2016.1191133>>.

149 Abdel-Fattah (n 6) 147.

of belonging and identity in the legal profession was in stark juxtaposition to their experiences as law students.

B Transition from Law School into the Legal Profession

In relation to the students' concerns about transitioning from law school and into the legal profession, it is important to acknowledge that many law students undertaking a law degree will not go on to legal practice.¹⁵⁰ Kift and Nakano have recently documented the ongoing tension between the demand from the profession for 'practice-ready graduates' and the increasingly generalist nature of the law degree in Australia.¹⁵¹ However, given that our study focused on students' sense of belonging and identity at law school and in the legal profession, we have confined this discussion to the implications of our study in relation to Muslim students' transition into legal practice. The experiences of the students in our study indicate that law schools and the legal profession in Australia may need to consider barriers to entry to and progression in the profession for Muslim students.

As discussed above, there is limited empirical research relating to the experience of lawyers from culturally diverse backgrounds in Australia. The 2022 AALA report indicates that 'diverse lawyers are more willing to mentor other diverse lawyers'.¹⁵² However, the lack of diverse mentors at senior levels in the profession posed challenges for culturally diverse solicitors attempting to advance to the Bar. Like the students in our case study, the AALA report also identified a lack of access to networks. The AALA participants commented that '[I]ike hires like' and that 'clients and the legal industry only accept and take advice from white, male [b]arristers'.¹⁵³ They described the Bar as a '[n]etworking boys club'¹⁵⁴ and a 'Caucasian club',¹⁵⁵ observing that 'it doesn't help when there are not a lot of Asian barristers represented'.¹⁵⁶

Again, like the students in our case study, the link between networking and alcohol in the legal profession was identified in the AALA study as a barrier to participation and inclusion, because drinking was 'where the bonds and access to opportunities often are',¹⁵⁷ and respondents did '[n]ot [fit] into the pub culture because [they] didn't grow up drinking beer'.¹⁵⁸ The qualitative data in the 2022 AALA report also indicated that the respondents experienced barriers to networking with clients, because 'the client social events involved golfing or other "elitist white" sports/hobbies which involved exclusive memberships that many Asian background lawyers do not have the benefit of'.¹⁵⁹

150 Productivity Commission, Australian Government, *Access to Justice Arrangements: Productivity Commission Inquiry Report* (Report No 72, 5 September 2014) vol 1, 246.

151 Kift and Nakano (n 13) 85–94.

152 *Cultural Diversity Focus Groups Project* (n 17) 40.

153 *Ibid* 24.

154 *Ibid* 23.

155 *Ibid* 37.

156 *Ibid* 23.

157 *Ibid* 25.

158 *Ibid* 39.

159 *Ibid* 38.

The AALA report pointed to the presence of diversity tokenism in the profession. Respondents expressed concerns about ‘tokenistic initiatives within the workplace instead of real rewards/promotions’, which they described as ‘diversity washing’.¹⁶⁰ They observed that, while employers may be well intentioned, they did not appear prepared to devote proper resources to supporting diversity.¹⁶¹ What was needed was ‘[e]ncouraging and fostering GENUINE opportunities for those culturally diverse solicitors (rather than just hosting a “harmony day” morning tea)’.¹⁶² Respondents in the AALA study also noted that ‘culturally diverse lawyer[s] ... [were] being pigeon-holed for ... certain stereotypes [of work]’.¹⁶³

These observations from culturally diverse legal practitioners in Australia resonate with Student A’s perception that there is a choice to be made between ‘Muslim dominated’ firms on the one hand, and ‘corporate’ or ‘really high-class’ firms, where they may need to compromise their values.¹⁶⁴ Student Z’s comments about her cultural background being perceived as an asset, but only in certain areas of practice (family law, dispute resolution), is also pertinent here. Van der Raad’s study of legal professionals from Islamic backgrounds in the Netherlands notes the sense of agency experienced by some of the legal professionals who had harnessed their identity and promoted it as an asset in certain areas of legal practice.¹⁶⁵ However, as Van der Raad points out, where it is assumed that, as a group, practitioners from an Islamic background may possess language skills or cultural connections that are valuable in legal practice, ‘individual competencies are not acknowledged’.¹⁶⁶ There is a need to critically reflect on whether being Muslim and a lawyer involves engaging only in certain types of legal work, or being valued to do only certain types of legal work.

Assuming that we want to avoid the stratification of the Australian legal profession as it becomes more culturally diverse, what might this mean for legal education?

In the UK legal education context, it is possible to observe at least two concerning responses to the stratification of the legal profession. The first is that, rather than challenging or addressing the structural impediments to diversification across the profession, legal educators educate students about these barriers, so that students develop strategies to ‘find possible ways through such structural barriers’.¹⁶⁷ The second is that law schools design curricula around the assumption that students from diverse backgrounds will graduate to practice in certain areas of law, or may not practice at all.¹⁶⁸ Both approaches are problematic because they perpetuate, rather than challenge, the stratification of the legal profession.

160 Ibid 40.

161 Ibid 30.

162 Ibid 26.

163 Ibid 39.

164 Student A, ‘Female Focus Group Interview’ (n 115).

165 Van der Raad (n 68) 250–2.

166 Ibid 252.

167 McKee et al (n 15) 286.

168 See, eg, Susanna Menis, ‘Non-traditional Students and Critical Pedagogy: Transformative Practice and the Teaching of Criminal Law’ (2017) 22(2) *Teaching in Higher Education* 193, 196 <<https://doi.org/10.1080/13562517.2016.1237492>>.

The widening participation agenda in higher education tends to focus on extending access to admission into and participation in university study for students from diverse backgrounds.¹⁶⁹ However, ‘on the other end of the pipeline, the onus is on students to navigate the transition into the labour market’.¹⁷⁰ It has been observed that the experiences of ‘non-traditional students’ as they transition from university into employment is under-researched.¹⁷¹ Recent Australian research demonstrates that students from culturally and linguistically diverse backgrounds have poorer outcomes in relation to employment after graduation.¹⁷² Sally Baker et al argue that generic graduate employability support within Australian universities are not an effective means of supporting culturally and linguistically diverse (‘CALD’) students’ ‘transition out’ of university and into the workforce, and that ‘profession-specific employability support’ is needed, tailored to the needs of CALD students.¹⁷³ However, they also point to the ‘pull factors’ in the labour market which impede CALD students’ transition into the workforce. These include inherent biases and racism in recruitment practices.¹⁷⁴ They point to the important role that universities can play in advocating for CALD students in relation to the value they bring to workplaces,¹⁷⁵ and in educating employers ‘using research and expertise to foreground the strengths that [CALD] graduates can bring to the Australian workforce’.¹⁷⁶

Legal education in Australia has been the locus of considerable energy and innovation in terms of transition ‘in’ to university and the first-year experience.¹⁷⁷ However, it has been argued that transition pedagogy in legal education should

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- 169 David R Carroll and Ian W Li, ‘Work and Further Study after University Degree Completion for Equity Groups’ (2022) 44(1) *Journal of Higher Education Policy and Management* 21, 21 <<https://doi.org/10.1080/1360080X.2021.1988841>>.
- 170 Violetta Parutis and Camille Kandiko Howson, ‘Failing to Level the Playing Field: Student Discourses on Graduate Employability’ (2020) 25(4) *Research in Post-Compulsory Education* 373, 374 <<https://doi.org/10.1080/13596748.2020.1846312>>.
- 171 María Tenorio-Rodríguez, Teresa Padilla-Carmona and José González-Monteaquedo, ‘Between Adaptation and Equity: Access to the Labour Market for Non-traditional Students and Graduates’ (2022) 40(2) *Revista de Investigación Educativa* 549 <<http://dx.doi.org/10.6018/rie.473771>>.
- 172 Carroll and Li (n 169) 30–3.
- 173 Sally Baker et al, ‘Disrupting Assumptions about Graduate Employability: Exploring Culturally and Linguistically Diverse University Students’ Graduate Capitals in Australia’ (2023) 45(2) *Journal of Higher Education Policy and Management* 174, 186 <<https://doi.org/10.1080/1360080X.2023.2180165>>.
- 174 Ibid 184–5.
- 175 Ibid 185. See also David Gilani, ‘Creating Connections: The Role of Universities in Enhancing Graduates’ Social Capital and Challenging Nepotism’ (2020) 24(1) *Perspectives: Policy and Practice in Higher Education* 14, 16 <<https://doi.org/10.1080/13603108.2019.1678528>>.
- 176 Baker et al (n 173) 185.
- 177 Des Butler et al, ‘Embodying Life-Long Learning: Transition and Capstone Experiences’ (2017) 43(2) *Oxford Review of Education* 194, 197 <<https://doi.org/10.1080/03054985.2016.1270199>>. See also, eg, Sally Kift, Karen Nelson and John Clarke, ‘Transition Pedagogy: A Third Generation Approach to FYE’ (2010) 1(1) *International Journal of the First Year in Higher Education* 1 <<https://doi.org/10.5204/intjfyhe.v1i1.13>>; Susan Armstrong and Michelle Sanson, ‘From Confusion to Confidence: Transitioning to Law School’ (2012) 12(1) *Law and Justice Journal* 21 <<https://doi.org/10.5204/qutlr.v12i1.467>>; Leon Wolff and Maria Nicolae (eds), *The First-Year Law Experience: A New Beginning* (Halstead Press, 2014); Cassandra Sharp et al, ‘Taking Hints From Hogwarts: UOW’s First Year Law Immersion Program’ (2013) 6 (1–2) *Journal of the Australasian Law Teachers Association* 127.

focus on both ends of the transition experience,¹⁷⁸ because ‘a transition “out” ... can be as demanding as the transition “in” to university in the first year [of law]’.¹⁷⁹ Studies concerning transition pedagogy for final year law students in Australia have demonstrated that students experience a high level of anxiety and psychological stress as they transition from law school, emphasising students’ uncertainty concerning employer expectations and the need for closer mentoring.¹⁸⁰ Butler et al emphasise also law schools’ responsibility to ‘ensure they provide support for [student] well-being at this crucial point in their professional development’.¹⁸¹

The most recent comprehensive report relating to the final year transition experience for Australian law students was published in 2013.¹⁸² This report focuses entirely on law school curriculum renewal to enhance the student experience in their final year, ‘to close the loop on tertiary legal studies and better prepare students for a smooth transition into the world of work and professional practice’.¹⁸³ The report advocates for a capstone experience in students’ final year of study and recommends that such capstone experiences should be guided by the same principles developed in relation to first year transition pedagogy: transition; integration and closure; diversity; engagement; assessment; and evaluation.¹⁸⁴ However, in relation to the principle of ‘diversity’, this report focuses on the capstone experience preparing students for the diverse range of people they may encounter in their professional lives, suggesting that students need support in the development of their cultural competence.¹⁸⁵ This recommendation appears to assume that the students are already part of a dominant legal culture and that they therefore need support in learning how to interact with those from diverse backgrounds. The report acknowledges that the principle of ‘diversity’ also relates to supporting students from diverse backgrounds.¹⁸⁶ However, its recommendations in relation to how this might be achieved are limited. They include, for example, ‘promoting diversity in the law school community ... by employing and recruiting non-traditional staff and students’ and providing ‘special support’ for ‘students who are more likely to encounter discrimination in the workforce’.¹⁸⁷ This limited treatment of the

178 Susan Armstrong and Judith McNamara, ‘Transition Pedagogy in First and Final Year Law Programs’ in Sally Kift et al (eds), *Excellence and Innovation in Legal Education* (LexisNexis Butterworths, 1st ed, 2011) ch 8, 208.

179 Mandy Shircore et al, ‘From the First Year to the Final Year Experience: Embedding Reflection for Work Integrated Learning in a Holistic Curriculum Framework’ (2013) 4(1) *International Journal of the First Year in Higher Education* 125, 132 <<https://doi.org/10.5204/ijtyfyhe.v4i1.158>>. See also Sally Kift et al, *Curriculum Renewal in Legal Education* (Final Report, 2013) 43.

180 Butler et al (n 177) 201.

181 *Ibid* 199.

182 Kift et al, *Curriculum Renewal in Legal Education* (n 179).

183 *Ibid* 12.

184 *Ibid* 13.

185 *Ibid* 50–1.

186 *Ibid* 52.

187 *Ibid*.

principle of diversity in ‘transition out’ law pedagogy can be contrasted to the considerable attention that it is given in the ‘transition in’ literature.¹⁸⁸

Butler et al argue that the optimal type of ‘transition out’ law program would ‘involve collaboration with the profession’.¹⁸⁹ However, such collaborations should avoid the deficit framing of Muslim students. Van der Raad’s work examines a program called *Brug naar de Top* (‘Bridge to the Top’), a mentoring program for law students from culturally diverse backgrounds conducted by a large, elite corporate law firm in Amsterdam and the Council for the Judiciary.¹⁹⁰ The students’ experiences of this program were that it was condescending, primarily because the program adopted a deficit framework in relation to these students. There was an assumption that the students would be lacking in the ‘right (language) skills as well as cultural and social capital to fully and equally participate in the [legal profession]’.¹⁹¹

We suggest that collaborations between law schools and the legal profession to support Muslim students’ transition out of legal education could avoid this deficit framing and increase students’ sense of belonging, inclusion and identity by adopting the framework of ‘bridging socio-cultural incongruity’ developed by Marcia Devlin and Jade McKay.¹⁹²

This framework has been employed to support ‘transition in’ pedagogy for ‘non-traditional’ university students. It resists approaches to ‘transition in’ pedagogy which frame these students in deficit and which makes the students solely responsible for adapting to the implicit norms and culture of university. At the same time, it also rejects models of ‘transition in’ pedagogy that suggest that universities are ‘the problem’ and that what is required to ‘fix’ the problem with universities is simply for the institution’s expectations of students to be made more explicit.¹⁹³

The framework of bridging sociocultural incongruity suggests a two-way approach: ‘Rather than requiring students to fit the existing institutional culture [of university], it suggests that institutional cultures be adapted to better fit the needs of an increasingly diverse student body’.¹⁹⁴ In advocating for an approach which challenges universities to adapt, however, this approach cautions against denying agency, because this can further marginalise students, and also assumes (incorrectly)

188 For a detailed analysis of this literature, see Cody and Noakes, ‘Valuing Diverse Students’ (n 114) 73–5; Noakes and Cody, ‘Building a (Self) Reflective Muscle’ (n 114) 74–81.

189 Butler et al (n 177) 201.

190 Van der Raad (n 68) 258–9.

191 Ibid 264.

192 Marcia Devlin, ‘Bridging Socio-Cultural Incongruity: Conceptualising the Success of Students from Low Socio-Economic Status Backgrounds in Australian Higher Education’ (2013) 38(6) *Studies in Higher Education* 939 <<https://doi.org/10.1080/03075079.2011.613991>>; Marcia Devlin et al, *Effective Teaching and Support of Students from Low Socioeconomic Status Backgrounds: Resources for Australian Higher Education* (Final Report, 2012); Marcia Devlin and Jade McKay, ‘Reframing “the Problem”’: Students from Low Socio-Economic Status Backgrounds Transitioning to University’ in Heather Brook et al (eds), *Universities in Transition: Foregrounding Social Contexts of Knowledge in the First Year Experience* (University of Adelaide Press, 2014) 97.

193 Devlin (n 192) 943–4.

194 Ibid 944. See also Sarah O’Shea et al, ‘Shifting the Blame in Higher Education: Social Inclusion and Deficit Discourses’ (2016) 35(2) *Higher Education Research and Development* 322 <<https://doi.org/10.1080/07294360.2015.1087388>>.

that students from ‘non-traditional’ backgrounds are ‘passive recipients of the middle and upper class culture and discourse of university’.¹⁹⁵ Instead, students should be encouraged to use their ‘outsider’ knowledge to challenge and critique these dominant cultures and discourses.¹⁹⁶

Devlin and McKay’s work relating to bridging sociocultural incongruity focuses on students from low-SES backgrounds. However, as Devlin acknowledges, the conceptual framework derives from the concept of cultural congruity developed in relation to CALD students in higher education settings in the US.¹⁹⁷ It has also been suggested that the concept of ‘bridging sociocultural incongruity’ could be used to better understand the experiences of students as they enter into employment, as there are similarities between students’ ‘transition in’ to university and their transition from university into the workforce.¹⁹⁸

There are two key principles of the ‘bridging sociocultural incongruity’ framework that may better support ‘transition out’ law programs involving collaboration with the profession: knowing the students; and understanding the link between cultural capital and the relevant discourse of the dominant institutions.

1 Knowing the Students

As applied to ‘transition in’ pedagogy, the principle of ‘knowing the students’ refers to ‘understanding the unique abilities and experiences which ... non-traditional students bring with them to university’.¹⁹⁹ Applied to ‘transition out’ pedagogy, this would require collaborations between the profession and law schools which encourages a dialogue about students’ unique abilities and experiences. In the context of ‘transition in’ pedagogy, Kift warns against ‘making assumptions about particular cohorts of students’.²⁰⁰ However, having some understanding of the common experiences of particular groups of students may assist to bridge sociocultural incongruity. In relation to the experiences of Muslim law students, it is important to note the critique in Van der Raad’s research of the *Brug naar de Top* program. The participants in this program were meant to adopt precisely the type of ‘two way’ approach advocated in Devlin and Kift’s model; the law students were ‘allowed to take a look behind the legal scenes and the legal professionals were able to take a look in the law students’ worlds and what kept them busy during their daily lives’.²⁰¹ However, in practice, there appeared to be little appetite from the practitioner-mentors in the *Brug naar de Top* program to get to know about the students’ lives. It would be important

195 Devlin and McKay (n 192) 105.

196 Ibid 106.

197 Devlin (n 192) 943; Darnell Cole and Araceli Espinoza, ‘Examining the Academic Success of Latino Students in Science Technology Engineering and Mathematics (STEM) Majors’ (2008) 49(4) *Journal of College Student Development* 285 <<https://doi.org/10.1353/csd.0.0018>>.

198 Paul Jewell et al, ‘Information Skills for Business Acumen and Employability: A Competitive Advantage for Graduates in Western Sydney’ (2020) 95(2) *Journal of Education for Business* 88, 89 <<https://doi.org/10.1080/08832323.2019.1610346>>.

199 Devlin and McKay (n 192) 106.

200 Ibid 107.

201 Van der Raad (n 68) 261.

for collaborations between law schools and the profession in Australia to ensure that the ‘bridge’ does not operate unilaterally.²⁰²

2 Understanding the Link between Cultural Capital and the Relevant Discourse of the Dominant Institutions

Devlin and McKay’s framework links the importance of cultural capital to the discourse of academia.²⁰³ Harnessing Pierre Bourdieu’s concept of cultural capital as ‘proficiency in and familiarity with dominant cultural codes and practices’,²⁰⁴ they argue that are ways of thinking and doing at university that are so obvious to those embedded in the institution that they are never explained or articulated to students from non-traditional backgrounds, nor are they interrogated by those who are part of the dominant culture at university. This further entrenches the academic advantage of traditional students, who already know these implicit rules and have a ‘feel for the game’.²⁰⁵

As noted by Ryan Naylor and Nathan Mifsud, the concept of cultural capital has been widely deployed in academic literature concerning the support of students from diverse backgrounds in higher education.²⁰⁶ However, they caution that Bourdieu’s concept of cultural capital is sometimes misused in this literature to implicitly frame students from diverse backgrounds in deficit, that is, by framing them as ‘lacking’ the requisite cultural capital.²⁰⁷ This framework places onus on the students to access support services within the university that permit them to ‘assimilate’, to ‘build’ their cultural capital.²⁰⁸ It ignores one of the key components of Bourdieu’s framework, which is that ‘capital gives privileged access to further capital, allowing the dominant classes to monopolise resources and reinforce their dominance’.²⁰⁹

It is therefore important that the concept of cultural capital is used to interrogate the dominant, invisible norms and assumptions of the relevant institution, rather than as a framework which positions Muslim law students as ‘lacking’ certain types of capital. For example, Lisa Webley et al use Bourdieu’s framework to critically examine structural and social barriers to entry into the legal practice for students from CALD and low-SES backgrounds in Britain.²¹⁰ Their study demonstrates that ‘hiring practices occur within a neo-liberal market that is viewed as rational, equal and justified, but as they are heavily reliant on constructed notions of talent and

202 Ibid.

203 Devlin (n 192) 940–2; Devlin and McKay (n 192) 99–101.

204 Devlin and McKay (n 192) 99. See also Karen Aschaffenburg and Ineke Maas, ‘Cultural and Educational Careers: The Dynamics of Social Reproduction’ (1997) 62(4) *American Sociological Review* 573 <<https://doi.org/10.2307/2657427>>.

205 Stéphane A Farenga, ‘Early Struggles, Peer Groups and Eventual Success: An Artful Inquiry into Unpacking Transitions into University of Widening Participation Students’ (2018) 20(1) *Widening Participation and Lifelong Learning* 60, 61 <<https://doi.org/10.5456/WPLL.20.1.60>>.

206 Ryan Naylor and Nathan Mifsud, ‘Towards a Structural Inequality Framework for Student Retention and Success’ (2020) 39(2) *Higher Education Research and Development* 259, 260 <<https://doi.org/10.1080/07294360.2019.1670143>>.

207 Ibid.

208 Ibid 265.

209 Ibid 264.

210 Webley et al (n 56).

merit they reproduce the dominant group's position within the profession'.²¹¹ In her recent analysis of the recruitment advertising of elite commercial law firms and the Bar in England and Wales, Chronopoulou documents the ways in which this material implicitly signals that there is an ideal candidate, by preferencing and foregrounding the social and cultural practices of white middle-class graduates. This is despite the recruitment material also being replete with commitments to inclusion and diversity.²¹²

Applied to 'transition out' pedagogy for Australian law schools in collaboration with the profession, this principle would require honest, frank and, sometimes, confronting discussions about current networking, mentoring and recruitment practices. It may also involve discussions about the experiences of CALD practitioners in jurisdictions such as the UK and further research into the experiences of CALD practitioners in Australia. As legal educators working closely with students applying for clerkship and graduate roles in large corporate firms, it appears that little has changed since our own participation in these programs two or three decades ago, despite the firms' stated commitment to engaging students from diverse backgrounds.

C Fostering a Sense of Belonging and Islam in the Curriculum

Research indicates that fostering a feeling of belonging among students is crucial for strengthening their connection to their law school.²¹³ This feeling of belonging correlates with favourable academic outcomes, such as increased academic drive, involvement, continuity and attainment.²¹⁴ According to the national study of Muslims in Australian universities conducted prior to the September 11 attacks, 61% of Muslim students agreed that they belonged to a group of staff and students committed to learning, 51% felt that they were able to explore their academic interests with staff and students, and 31% agreed that they belonged to the university community.²¹⁵ Although slightly dated, this research from Australia is consistent with more recent research from the US. Elizabeth Bodamer's study delves into the concept of belonging within the realm of diversity and equity in legal education.

Bodamer's results indicate that the law school experience is contingent on race and gender, with women of colour notably more prone to experiencing a sense of detachment compared to other groups.²¹⁶ The impact of gender on the experience of Muslim students is discussed further in the next section. Bodamer's research also highlights the prevalence of bias incidents and stereotype concerns among students,

211 Ibid 200.

212 Chronopoulou (n 58).

213 Elizabeth Bodamer, 'Do I Belong Here? Examining Perceived Experiences of Bias, Stereotype Concerns, and Sense of Belonging in US Law Schools' (2020) 69(2) *Journal of Legal Education* 455, 456.

214 Ibid.

215 Asmar, Prude and Inge (n 21) 53.

216 Bodamer (n 213) 457.

particularly those from minority backgrounds, which are closely associated with a diminished sense of belonging.²¹⁷

Addressing bias, stereotypes and institutional practices in the teaching of Islam in law schools is key to enhancing student wellbeing and academic success. Taking into account the impact of colonialism on Islamic law can also help improve the way Islamic law is taught to make it more comprehensive and informative. Additionally, integrating critical race theory, as advocated by Abdel-Fattah, can help further understand the experiences of Muslim students and how they respond to the university as a white institution.

While limited research exists on how Islamic law is taught at Australian universities,²¹⁸ more extensive studies have been conducted internationally. Understanding how Islamic law is taught in law schools in the US, the UK and Canada is particularly relevant. For example, Professor of Law in the UK, Shaheen Sardar Ali, notes that when teaching Islamic law, she makes it clear to students that she is ‘not teaching a course on Islam as a religion ...’ and ‘... no subject is taught in an ideological, social, or political vacuum. Thus, teaching and learning Islamic law, like any other subject, is a political act and never devoid of moral, ethical, social and political context.’²¹⁹ She further notes that:

Islamic Law course is not like western courses in contracts, trusts or banking law and so on, because Islamic law is not statute law and thus has no single definitive content. Teaching Islamic law thus means teaching a range of possible rules on a particular topic based on the interpretation of those rules employed to resolve problems arising in various spheres of life.²²⁰

Ali’s statement resonates with the sentiments expressed by students in our case study, stressing the importance of teaching content and delivery methods in law schools to embrace a spectrum of perspectives within the Muslim community.²²¹

In her research, Ali also found that:

In the present global political and social climate, where discomfort and distrust of Islam and Muslims is an alarmingly high level, including Islamic law in the list of law school offerings would present an opportunity to engage firsthand with the Islamic legal tradition. For most law students in western universities, this would likely be their first and perhaps only interaction with Islamic law, or indeed Islam and Muslims, and a chance to dispel pre-conceived notions.²²²

However, it is important to note that the goal of curriculum development should not be limited to dispelling stereotypes and combating Islamophobia. It is also imperative to acknowledge and address the structural inequities impacting

217 Ibid.

218 See generally Zuleyha Keskin and Mehmet Ozalp, ‘Islamic Studies in Australia’s Universities’ (2021) 12(2) *Religions* 99:1–16 <<https://doi.org/10.3390/rel12020099>>; Ann Black and Jamila Hussain, ‘Responding to the Challenge of Multiculturalism: Islamic Law Courses in Law School Curricula in Australasia’ (2006) 9(2) *Flinders Journal of Law Reform* 205; Halim Rane, Adis Duderija and Jessica Mamone, ‘Islamic Studies in Australia’s Higher Education Sector’ (2021) 6(1) *Australian Journal of Islamic Studies* 1.

219 Shaheen Sardar Ali, ‘Teaching and Learning Islamic Law in a Globalized World: Some Reflections and Perspectives’ (2011) 61(2) *Journal of Legal Education* 206, 213–14.

220 Ibid 229.

221 Ahmad Ghouri, ‘Pedagogy of Islamic Law in a Diverse Student Cohort: The Challenges and Approaches to Teaching and Learning’ (2021) 7(2) *Journal of Educational Sciences and Research* 129, 133.

222 Ali (n 219) 230.

the experiences of Muslim students. In fact, Abdel-Fattah critiques the sole focus on inclusion, diversity and accommodating religious and cultural practices.²²³ This is because Abdel-Fattah's research shows that the experiences of Muslim students transcend mere inclusion and diversity and that these challenges should be understood through the lens of educational inequities and racial power structures. For example, the teaching of Islamic law at the University of Sydney in 2017–18 faced significant challenges, including an online petition calling for the dismissal of lecturers teaching the subject. This was compounded by the effects of Islamophobia and sensationalised media coverage, which fuelled fear and misunderstanding,²²⁴ affirming Abdel-Fattah's assertion.²²⁵ Consequently, the inclusion of religious content within secular academic institutions can also present significant complexities. Upholding scholarly neutrality and institutional integrity can create inherent tensions, especially when educational frameworks risk being perceived as endorsing specific religious traditions.

Drawing on the insights of First Nations scholar Aileen Moreton-Robinson, Abdel-Fattah highlights how whiteness operates in the Australian context.²²⁶ She argues that whiteness is not just an identity but also a political position and a set of institutional practices that wield coercive power, symbolising national belonging and identity.²²⁷ One way in which this can be addressed is by extending the understanding of Islam and Muslim societies beyond the boundaries of the 'Islamic law' elective.

As noted earlier, Abdel-Fattah focuses on the impact of colonialism in understanding the experiences of Muslim university students. There is a need to examine student wellbeing through the lens of critical race theory by examining how student experiences intersect with wider institutional practices, including settler colonialism and its link with Islamophobia.²²⁸ Research indicates that curriculum reform should be deeply embedded in institutional practices that help students cultivate a sense of belonging, engagement and connection with their university journey.²²⁹ It is important for students to feel a sense of belonging through a holistic law curriculum that does not limit the discussion of Islam to the 'Islamic law' elective. However, there needs to be more research on the integration of Islamic law into the legal profession, as well as the economics and budgets of curriculum design. This includes examining the justifications for not teaching subjects like Islamic law and understanding the barriers to its inclusion. A more comprehensive understanding of these factors is also essential to developing an

223 Abdel-Fattah (n 6) 139.

224 Max Margan, 'From Polygamy to the Age of Consent: Sydney University's Elite Law School "Teaching Students How Elements of Sharia Could Be Integrated into Australia's Legal System"', *Daily Mail Australia* (online, 14 July 2017) <<https://www.dailymail.co.uk/news/article-4693950/Sydney-University-s-Sharia-law-teachings-Australia.html>>.

225 Abdel-Fattah (n 6) 139.

226 Ibid.

227 Ibid.

228 Ibid.

229 See Sally Kift and Karen Nelson, 'Beyond Curriculum Reform: Embedding the Transition Experience' (Conference Paper, HERDSA Annual Conference, 3–6 July 2005).

inclusive and relevant curriculum that reflects the diverse needs of students and the legal profession.

D Gendered Discrimination and Intersectionality

Gender-based discrimination permeates through all the previously identified themes in this article. For example, as discussed under the theme ‘Diversity at Law School as an “Advantage”?’²³⁰, while students at WSU may feel a strong sense of belonging and identity, they may not find the same level of belonging at other universities. Research indicates that this lack of belonging intensifies for women, with female students reporting higher levels of discrimination based on their religious identity.²³⁰ As highlighted in the theme ‘Transition from Law School into the Legal Profession’, the intersecting identities of Muslim women also influence their transition from law school to the legal profession. Additionally, the theme ‘Fostering a Sense of Belonging and Islam in the Curriculum’ highlights that women of colour, in particular, are more likely to feel a lack of belonging compared to other groups within the legal education context.²³¹

As discussed above, although Student A’s experience at law school of being among other students who are ‘visibly Muslim’²³² is positive overall, her experience is arguably ‘racialised’ in the way that she is perceived by others. ‘Gendered racialisation’ refers to the intersectional analysis focusing on how Muslim bodies are coded both racially and gender-wise, influenced by expressions of religion and politics, such as the symbolic significance of the hijab in distinguishing Muslim women visibly from others.²³³ For instance, research by Nuray Karaman and Michelle Christian reveals that Muslim women students experience racialisation and a lack of belonging.²³⁴ This emphasises the significant roles played by intersecting factors such as nationality, gender, racial body signification and religious-political expression and how Muslim women negotiate their racialisation through various coping strategies shaped by their intersecting identities.²³⁵

Student A discusses the ‘raised eyebrows’, presumably from her community, regarding her choice to study law rather than teaching or arts, but she counters this by noting that nowadays, boundaries are less rigid.²³⁶ She copes by focusing on her university experience, where she embraces diversity. Research indicates that ‘familism’ among Muslim women in higher education has dual implications, encompassing

230 See generally Possamai et al, ‘Religious and Cultural Experiences in the Micro-publics of University Campuses’ (n 25); Possamai et al, ‘Cultural and Religious Experiences in City, Suburban and Regional University Campuses’ (n 25).

231 Bodamer (n 213) 456.

232 Student A, ‘Female Focus Group Interview’ (n 115).

233 Saher Selod, ‘Gendered Racialization: Muslim American Men and Women’s Encounters with Racialized Surveillance’ (2019) 42(4) *Ethnic and Racial Studies* 552 <<https://doi.org/10.1080/01419870.2018.1445870>>; Nuray Karaman and Michelle Christian, “‘My Hijab Is Like My Skin Color’: Muslim Women Students, Racialization, and Intersectionality” (2020) 6(4) *Sociology of Race and Ethnicity* 517 <<https://doi.org/10.1177/2332649220903740>>.

234 See generally Karaman and Christian (n 233).

235 See generally Farzaneh Khosrojerdi, ‘Muslim Female Students and Their Experiences of Higher Education in Canada’ (PhD Thesis, University of Western Ontario, 2015).

236 Student A, ‘Female Focus Group Interview’ (n 115).

both positive and negative facets.²³⁷ Familism is defined as the influence of familial bonds on decision-making processes and subsequent behavioural outcomes among Muslim women.²³⁸ The expectation to take into consideration family and community for Muslim women adds to the intersecting challenges. However, most empirical research into the experiences of Muslim women reject stereotypes depicting Muslim women leading ‘double lives’ or their families as ‘backward’, instead emphasising these women as active agents who challenge such stereotypes.²³⁹ We can see this play out with Student A’s comment when she says that she enjoys the experience of study and feels connected to the university community.

Student B’s experience of the intersectional challenges she faced as a single parent and ‘new English speaker’²⁴⁰ resonates with research findings on how Muslim women manage multifaceted identities encompassing gender, religion, educational pursuits, familial roles and cultural background, including factors like ethnicity and wearing or not wearing a hijab.²⁴¹ In her case, being a single parent and a new English speaker significantly influences her journey as a Muslim law student, shaping how she navigates these intersecting identities. Student B’s experience also highlights the need for support systems and inclusive practices to foster academic success and personal wellbeing.

As observed in the theme ‘Transition from Law School into the Legal Profession’, these intersecting identities that Muslim women face also have an impact on their transition from law school to the law profession. Students in our focus group, particularly mature-aged female students such as Student M and Student Z, expressed anxiety about their transition from law school to the legal profession. Also discussed under this theme, the marginalisation of Muslim female students is compounded by barriers related to networking, as exemplified by the observation of Student F that ‘*as a Muslim girl, I wouldn’t be able to go to those locations where you can connect with influential people, get to know different individuals, and establish connections for future job prospects*’.²⁴²

These findings are also consistent with the results presented in the most recent *Islamophobia in Australia* report. This report underscores that a significant majority of Islamophobia victims are women.²⁴³ Possamai et al similarly found that Muslim female students in Australia may experience a heightened level of discrimination compared to their male counterparts due to their visibility and intersectional factors.²⁴⁴ This resonates with the experiences of Muslim female students in the

237 Hala Alnagar, “‘Reclaiming Our Muslimness’: Intersectional Identities of Muslim American Women College Students” (PhD Dissertation, University of California, Merced, 2021) 10.

238 Ibid.

239 Khosrojerdi (n 235); David Tyrer and Fauzia Ahmad, *Muslim Women and Higher Education: Identities, Experiences and Prospects* (Summary Report, 2006).

240 Student B, ‘Female Focus Group Interview’ (n 115).

241 Alnagar (n 237).

242 Student F, ‘Female Focus Group Interview’ (n 115) (emphasis added).

243 Carland et al (n 7).

244 Possamai et al, ‘Cultural and Religious Experiences in City, Suburban and Regional University Campuses’ (n 25); Possamai et al, ‘Religious and Cultural Experiences in the Micro-publics of University Campuses’ (n 25).

higher education sector in the UK,²⁴⁵ Canada²⁴⁶ and the US,²⁴⁷ notably through the lens of intersectionality acknowledging intersecting forces such as race, culture, ethnicity, language, SES, geographical location, religious interpretation and religious-political expression.²⁴⁸

The students' reflections about class participation reveal gender gaps that are familiar to legal education. Scholars attribute these disparities to teaching methods like Socratic teaching styles, which can disadvantage women, and suggest that institutional environments historically dominated by 'masculine virtues' perpetuate barriers to gender equality.²⁴⁹ Research from the US shows that despite women constituting approximately half of current law school enrolment, they do not contribute proportionally in classroom discussions.²⁵⁰ Studies such as those referred to as 'Speak Up' across various law schools including Harvard, Yale, Stanford, the University of Chicago and the University of Pennsylvania reveal systemic disparities in classroom participation between male and female students.²⁵¹ These studies consistently indicate that women speak less frequently than men, influencing their overall educational experience, self-confidence, grades and professional outcomes.²⁵²

In her research, Abdel-Fattah finds that Muslim students frequently feel pressured to self-censor their political and religious expressions. This concern is further highlighted in the current climate, where new university policies may limit students' ability to, for instance, openly express pro-Palestinian views in the classroom.²⁵³ This in turn affects the ability of students to participate in classroom discussions.²⁵⁴ The complexity of being both female and Muslim must be considered in relation to its intersectional impact on classroom engagement at Australian law schools. In fact, consideration should go beyond simply providing alternative methods for female students to engage in class participation, such as discussion boards or group work. It is important to also address the structural aspects: do Muslim female law students feel seen and represented at law school? Are there Muslim female academics on staff? Does the law school actively foster connections with Muslim women in the legal profession, inviting them to speak

245 Tyrer and Ahmad (n 239).

246 Khosrojerdi (n 235).

247 Zahra Rafie and Hemchand Gossai, *Female Muslim Student Experiences in Higher Education: A Narrative Enquiry* (Palgrave MacMillan, 2024) <<https://doi.org/10.1007/978-3-031-41424-4>>.

248 Karaman and Christian (n 233); *ibid*.

249 See generally Khoo and Neo (n 139).

250 See generally Molly Bishop Shadel, Sophie Trawalter and JH Verkerke, 'Gender Differences in Law School Classroom Participation: The Key Role of Social Context' (2022) 108 *Virginia Law Review Online* 30.

251 *Ibid*.

252 See generally Lani Guinier, Michelle Fine and Jane Balin, 'Becoming Gentlemen: Women's Experiences at One Ivy League Law School' (1994) 143(1) *University of Pennsylvania Law Review* 1; Judith D Fischer, 'Portia Unbound: The Effects of a Supportive Law School Environment on Women and Minority Students' (1996) 7(1) *UCLA Women's Law Journal* 81 <<https://doi.org/10.5070/L371017668>>; Khoo and Neo (n 139).

253 Caitlin Cassidy, 'Australian Universities' New Antisemitism Definition Has Some Academics Worried: Here's Why', *The Guardian* (online, 28 February 2025) <<https://www.theguardian.com/australia-news/2025/feb/28/australian-universities-new-antisemitism-definition-impacts-go8>>.

254 Abdel-Fattah (n 6) 147–8.

and engage with students? Representation at both academic and professional levels is also key to creating an inclusive environment where Muslim female students feel supported and acknowledged.

VI CONCLUSION

In this article, we argue that it is important to understand the lived experiences of Muslim law students, particularly given the lack of research on the topic in Australia. A concern about the lived experience of Muslim students in the current context is heightened given Islamophobia Register statistics indicate a rise in Islamophobia, with the most recent *Islamophobia in Australia* report indicating alarming statistics that there has been more than 2.5 times the number of offline/in-person incidents identified compared to previous reporting period averages.²⁵⁵ Additionally, the current context of self-censorship, challenges to freedom of speech, academic freedom and research related to Palestine further emphasise the need to understand the experiences of Muslim law students in Australian universities, who are no doubt impacted by these events.

This novel study, using a focus group methodology, provides a preliminary insight into these experiences and advocates for greater inclusivity in legal education. We also considered some implications for the legal profession. We caution against marginalisation within the profession, which can occur despite increased diversity in law schools. Our findings reinforce the need for systemic change that recognises the underlying inequalities that may hinder students from non-traditional backgrounds from fully participating in the legal profession. As Australian law schools continue to diversify, it is crucial that both law schools and the profession develop more comprehensive mechanisms to better support Muslim students and ensure their success.

We recognise that implementing these changes faces institutional and structural challenges, such as competing priorities, limited resources and resistance to change in established pedagogical traditions. The legal profession also struggles with cultural norms that can perpetuate exclusion. However, law schools can lead transformation by critically examining curricula, engaging with affected communities and challenging norms that fail to serve all students. Collaboration across stakeholders is also essential to create spaces where Muslim law students can contribute their perspectives without compromising their identities. Future research could explore the long-term impact of such initiatives on career outcomes, conduct comparative studies on inclusivity across law schools and examine the tension between teaching religion in secular universities, as well as the impact of university rules on free speech. Ultimately, true inclusivity requires continuous reflection and action to dismantle barriers and create environments where students can thrive.