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CAUGHT IN THE CROSS-FIRE:
THE REALITIES OF BEING MĀORI AT A BICULTURAL LAW SCHOOL

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ABSTRACT

This thesis examines the first Waikato Māori Law Graduates' experiences at law school and our employment choices. It has been written as a result of a research project which was conducted in 1994. The paper begins with establishing the importance of other Māori the guidelines on this project. In this discussion, my role as the researcher is explained together with how the original research project impacted upon this thesis.

Waikato School of Law was established in an era of socio-political changes in our society. Te Matahauariki Report supported its establishment based upon proven demand for law graduates. It also envisaged the School as being a meeting place for all who attended, an institution which might encourage relationships between Māori and Pakeha societies. The Council of Legal Education supported the need to have at least one law school which would not reflect the traditional legal education system and acknowledged the need to incorporate a Māori perspective. Tainui as tangata whenua hoped the school would provide opportunities for Māori students, including Māori in the curriculum and assist in promoting research ensuring the recognition of Māori lore/law.

Amongst this backdrop, the most important reason why we came to law school was because of our whānau expectations. It is the accountability and responsibility we have as Māori to our whānau and the wider Māori community that is a major theme throughout this thesis. As students we were expected to utilise our skills to benefit our wider Māori networks.

We had expected that the School would provide us with a legal education which would be enriched in Māori kaupapa. Our experiences tell another story. Instead of being educated in Māori tikanga and the true discourse of the law as a tool of oppression, we were exposed to continual suppression of our cultural heritage. In class we had become the teachers of the Maori content.

The School, although admirable in its aims, was not prepared in structure, staff or mental processes for biculturalism. The consequences for the Māori students who were exposed to this structure was devastating. Our experiences of being discriminated against and made to justify our Māori perspective against the backdrop of the dominant Pakeha legal culture have affected our perceptions of the law. The myths of one law for all and the neutrality of the justice system have resulted in our choosing to work in jobs that will continue to benefit Māori.

It is suggested that our legal education has influenced our choices to work in areas which focus on benefiting the Māori community. In those monocultural work areas which have few Māori practising, this is because such places repel those of us who know

that such work places perpetuate the dominant Pakeha culture. Māori struggle against the oppressive presence of the dominant culture.

This thesis calls upon my own experiences and the experiences of my fellow Māori law graduates. It is a starting point for other Māori to write about their experiences and to reassert Māori rangatiratanga not only in law school, but in the wider community.

ACKNOWLEDGMENTS

To Angela Rogers

To my dear friend and mate Angela Rogers who tragically passed away before I could share this thesis paper with her. Your amazing love of life, infectious personality and supportive nature will be sadly missed by all who knew you. Thoughts of you and your whānau will always be close to the hearts of your many friends, especially mine. Until we meet again Ange.....

To My Parents

I dedicate this thesis to my dad Te Aute Kareti and my mother Uraarii. To my mother who passed away in 1990, as I awaited to be accepted into law school and knowing that your destiny lay with your tipuna, it is your strength, your courage and your visions that made me realise, that I can do anything I put my mind to.

To My Brothers and Sisters

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To My Children

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To My Friends: The First Waikato Māori Law Graduates

To the special group of friends and colleagues, I thank you all for the privilege of being able to share your thoughts, feelings and opinions. Although I am writing this thesis, you are all the essential contributors, without whom, this thesis would not have been possible. In exchange for your participation and shared knowledge, I give you this thesis as a gift of my appreciation.

As a group we are unique. We are a special group of very talented Māori who experienced a lot from our law school days. We gave each other strength to get through our legal education. We gave each other our shoulders to cry, to moan, to laugh and to yell on. But the greatest gift we gave to each other is a life time of aroha and friendship that can never be lost.

The first stage of our journey, gaining our LLB qualification, is complete. Our second journey of life time experiences and commitment to our people is a continuous one. Remember who you are and why you came to study law. Remember who you represent and do not lose sight of where your commitments lie, where you hope to go and at what or whose expense you are doing your mahi for. Finally, encourage and support other Māori who are embarking on perhaps a similar journey such as ours. For we have successfully commenced our journey and so will they.

To Annie and Stephanie

Thank you for the opportunity to become part of this project. It was your vision which created the basis of this thesis. It is your sharing of knowledge, information, resources and moral support which helped me throughout this project and throughout my Masters year of study.

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PART I: INTRODUCTION

1.1 BACKGROUND

1.2 THE ISSUES

Currently, there is no published research available about the experiences, employment choices and status of Māori law graduates in the legal profession.¹ This thesis paper attempts to rectify this situation and provides information about the legal education and employment experiences of the first Māori law graduates of the Waikato School of Law (the School). The lack of practising Māori lawyers is a matter of concern to the wider Māori community, particularly to Māori law practitioners, law teachers and to the legal profession in general.

What is known is that there is a lack of Māori lawyers practising law in the private sector. Even more noticeable is the absence of Māori women lawyers in both the private and public sector.² Where have the Māori lawyers gone? After investing considerable time, energy and money into obtaining a law degree, what factors made them choose not to practise law?

Is there any relationship between the experiences of Māori law students while studying at the School, the numbers graduating and why Māori graduates do not choose to practise law?

Further, what does Biculturalism at law school mean? Who determines the way biculturalism is implemented and what perceptions do Māori who have trained at an avowedly bicultural law school.

1.3 THE PURPOSE

I write this paper with the purpose of informing others about our expectations of the School; our experiences during the course of our legal training; and whether our experiences impacted on our employment choices. I want people to learn from our experiences. I want people to take note, to understand, to continue to challenge and

1 There are two unpublished papers written by two former Waikato Maori law students as part of their course requirements. The first, written by Greg Davis, is “Being Maori and Being at Law School” (1992). It examines the experiences of Maori who went to law school, in particular Waikato School of Law. The second paper is written by Leah Whiu, and is entitled “Maori lawyer? Is it a contradiction in terms?” (1993). This paper was the result of a research project conducted by Leah, who interviewed some Maori lawyers about their experiences as Maori within the legal profession.

2 Sykes A, “How are Maori Women Doing 100 Years Later?” cited in *1993 Women’s Law Conference Papers* 164.

change structures, to write about, to discuss, to acknowledge, and to take responsibility for their actions.

I want prospective Māori law students, current Māori law students, Māori law graduates, the wider Māori community, all teaching staff of law schools, all law practitioners and the legal profession to learn from this paper.

1.4 MY EXPERIENCES

So how did I become involved in writing a thesis paper about our group of Māori law graduates. I am a member of this group and I had kept in contact with the majority of graduates and had established a strong rapport with them, from as early as 1989. In 1994 I had been asked to be the research assistant to a project designed by two Māori women law lecturers, Annie Mikaere and Stephanie Milroy, examining the expectations and experiences of Māori law graduates, and their employment choices. In 1995, I chose to incorporate the project as my two paper thesis.

To be honest, if someone had said to me at the end of my under graduate degree: “You are going to write a thesis and complete your Masters of Laws”, I would have replied: “No way!”, such was the isolation I had felt as a Māori at the School. My own experiences and the stresses I went through during my training dramatically changed the ideas, hopes and dreams I once had of becoming a lawyer. I had become disillusioned with my legal education and with the law in general. I wondered whether other Māori had the same frustrations and experiences.

I have struggled with an education system which did not promote or recognise a Māori perspective formally in a way that we, Māori students believed a Māori perspective should be recognised. The same situation has occurred this year with my Masters course. As a Māori student I have been aware of clear differences between Pakeha dominated expectations of learning about the law and my cultural identity, my ‘Māoriness’. As a post-graduate Māori researcher I wanted to participate and contribute in some significant way to the numerous socio-economic and legal issues impacting upon Māori. I wanted to write in a way in which I felt comfortable expressing myself, and in a way which I believed the majority of Māori readers would easily understand and benefit from. I could not do this in the present legal education framework the School offered, without having to constantly justify myself.

Having to justify my Māori perspective as being equally valid and important to the dominant Pakeha perspective has been difficult because of the underlying systemic discrimination that exists. The power to control and develop my own theories, in a framework I believe important to Māori, is not supported or even acknowledged by the present legal education regime at the School. Instead, I felt my Māori perspective was being conveniently put into the framework of a Pakeha dominated legal education. I strongly believed that I was spending my valuable time doing research for the sole

purpose of educating Pakeha, rather than for the benefit of Māori. Hence my frustrating struggle this year.

By internalising my conflict, anger and confusion about the non-acceptance of a Māori perspective in legal writing, I carried on with my course requirements during 1995 and was determined to have my perspective recognised and listened to. I am not alone with what I have experienced. My conflicts and struggles are shared by other Māori students and graduates.³

I wanted to be part of a project which gave some recognition to the graduates contribution to the development of the School and ultimately to the wider Māori community. In a more philosophical sense, this project represented for me a completion of the cycle of my time as a student at the School. I have gained immense satisfaction from my achievements and I feel an obligation to give something meaningful back to the people who have helped me achieve my goals.

1.5 ORIGINAL PROJECT

In 1993 Annie Mikaere and Stephanie Milroy, lecturers at the School, began a pilot research project designed to study the progress of Māori law graduates during and after our time at the School. The project looked at our perceptions of our legal education, including the School's commitment to biculturalism and the effects of our training on employment choices. Other aims of the project included assisting the graduates to maintain and build upon the close networks they had built up while at the School, and encouraging the graduates to provide support to the current Māori law students.

Two theses have developed from the original research project. The first thesis, written by Stephanie Milroy, looks at biculturalism in legal education and the experiences of Māori law graduates. The second is this paper, which discusses the expectations, experiences and employment choices of the School's first Māori law graduates. Originally, I had chosen to look specifically at where we went to once we had finished our legal training at the School. However, when I started to collate the information it became obvious that the expectations and experiences of the graduates were a crucial part of the research study. Consequently, I decided to write about our expectations and experiences before coming to Law School, during our time here, and since graduating.

1.6 STRUCTURE

My thesis consists of six parts. In Part II, I discuss Māori research guidelines and principles as developed and supported by prominent Māori writers. I explain my participation in the project as a participant-researcher rather than an objective-observer, a perspective which is commonly used in research. The participant-researcher role is

³ Support for this statement can be found from the comments in Part V of the text.

challenging but a necessary one, in light of the kaupapa which is discussed. Included in this section is discussion about my accountability as a researcher towards fellow graduates, whānau and the creators of the original project Annie Mikaere and Stephanie Milroy. This is followed by an explanation of the original research proposal and its destiny.

In Part III, Waikato School of Law, I have included background information about the development of the School. This discussion focuses upon the purpose and function of the School set in the context of changing legal education and the socio-political climate relating to Māori issues. Later, I discuss what the establishment of the fifth and newest Law School in New Zealand meant to different people and organisations, such as Tainui (tangata whenua), the University of Waikato (the University) and the legal profession. This section concludes with discussion about the growth in numbers of the Māori students and Māori staff.

Part IV, focuses on the factors which influenced our decisions to study law, including whānau expectations, proving Māori can study law too, to be a role model and finally the law as a means of helping people. The strongest theme in this section is undoubtedly whānau expectations and our responsibility to utilise our legal skills for their benefit. The second section examines why we chose to come to Waikato as opposed to Otago, Victoria, Auckland or Canterbury University. The two main reasons were the bicultural kaupapa of the School and because of its the close locality to our vital whānau support.

In Part V, I explore our expectations and experiences as students of the School. We believed that the bicultural nature of the School would fulfil our expectations. However from our experiences as students we soon realised that the School structure and course content embodied the knowledge and teachings fundamental to the traditional legal education similar to other law schools. There was little difference. Our experiences illustrate the struggles we had as Māori in a monocultural institution. A vital factor which assisted us to adjust to this situation were the Māori support systems we established. Our whanaungatanga (kinship) kept us together. At the end of this section, I evaluate whether our initial expectations were met.

In Part VI, I trace where we went to once we left the School. The majority of us gained successful employment placement. First, our employment expectations are traversed, including our reasons for making particular career choices such as going into Māori Employment Opportunities, Private law firms and the Public Sector areas. Some of us were unemployed for short periods before finding part time or full time employment. Others chose to embark on post-graduate studies and to do community voluntary work.

In concluding this paper, the main themes, issues and trends drawn from the analysis are summarised.

To some extent our experiences are similar to those shared by other indigenous people, such as the First Nations Peoples in Canada and the Aborigines in Australia. Where relevant, I have included comparisons with these other indigenous groups.

1.7 LIMITATIONS

This research project is based on the experiences of seventeen of the twenty three Māori who graduated from the School at its first graduation ceremony in 1994. The project is about our expectations and experiences. As a researcher, I do not claim that our experiences will be indicative of all the other Māori graduates to follow. Each intake of Māori students is different and as the first graduates, we can not purport to speak for other Māori that have followed us through Waikato. However, it is my opinion that some of our expectations and experiences will be similar to, if not the same as, those of other Māori students. Unfortunately, this paper cannot test my assumption. A longitudinal study of at least five to ten years, would provide the necessary information. This thesis is an initial project highlighting what some of the issues are for Māori.

This thesis paper, together with Stephanie Milroy's, is the first to study biculturalism in legal education and the experiences of Māori law graduates in New Zealand. This is not to say that other Māori law graduates from other law schools have not had similar experiences. Unfortunately, it would appear that no research has been published about the experiences of Māori graduates from the other four New Zealand schools of law.

PART II: METHODOLOGY

2.1 BACKGROUND

The impact of other Māori research, ethical frameworks and methodology on the development of this project has been substantial. Other Māori writers and researchers provide invaluable wisdom, guidance and assistance to newer and less experienced researchers such as myself. I have chosen to describe and analyse the information, guided by the precedents set by other Māori researchers.

2.2 MĀORI RESEARCH GUIDELINES

Māori research requires total autonomy, meaning that it must be conducted by Māori for Māori, from conception to completion.⁴ This thesis is primarily for the benefit of Māori. The research project was designed by two Māori researchers and carried out by a Māori research assistant. The group studied were Māori law graduates. Throughout the creation, development, implementation, evaluation and completion stages of this project and thesis paper, it is Māori who have controlled this process.

The examples of successful Māori research projects which have been developed, implemented, controlled and compiled by Māori are: MacNeill, von Dadelszen survey⁵ *Attitudes to Family Violence: A Study Across Cultures* ; Irihapeti Murchie⁶ *Rapuora Health and Māori Women*, a survey about Māori women's health; and Moana Jackson's *He Whaipaanga Hou* study.⁷

The main themes which can be drawn from these surveys are: the importance of a personal contact between the interviewer and the interviewees⁸; the use of Māori community groups to determine the research team; personal contact, including holding hui at local marae and working kanohi ki te kanohi (face to face). Using a 'familiar' face as the interviewer should ultimately provide rewarding results by and helping to

⁴ This is my personal opinion and is supported by writers such as Awatere, D *Maori Sovereignty*, Walker R, "A Consumer View on Research" in *The Issue of Research and Maori* and Te Awekotuku, N "He Tikanga Whakaaro: Research Ethics in the Maori Community" (1991).

⁵ See MacNeill, von Dadelszen, Gray (ed) "Attitudes to Family Violence: A Study Across Cultures" Department of Social Welfare, Wellington (1988).

⁶ Murchie, E *Rapuora: Health and Maori Women* (Wellington: Maori Women's Welfare League, 1984).

⁷ Jackson, M *The Maori and the Criminal Justice System He Whaipaanga Hou - A New Perspective Part 2*. (Wellington: Department of Justice, 1988).

⁸ Ibid, 23-27.

secure accountability to the community.⁹ Ultimately, the Māori community expect to see the benefits of the research being given back to them.

Māori research must be based on acknowledged cultural practices to ensure knowledge of and sensitivity to cultural values.¹⁰ The use of appropriate language to ensure the interviewee's comfort and cooperation is an important factor in the success of the research.

Another important feature of Māori research is the environment for interviewing. Ideally, interview locations should enable Māori to feel comfortable and should be accessible to them. It is not uncommon for interviews to take place at interviewees homes or on a marae.¹¹

Stephanie Milroy notes that the most appropriate person to conduct interviews is someone who is a member of the whānau group.¹² Whānau in this situation could mean a person who works or has worked closely with the interviewees or who is a member of the group being researched. The emphasis on accountability of the researcher to the interviewees is stressed and, ideally, it is the interviewee who can enforce this accountability on the researcher. It is the interviewee and not the interviewer who is placed in an empowered position.

In evaluating educational research, Graham Smith notes that Māori often have two complaints about research.¹³ First, that research answers questions for Pakeha. Often the purposes serve Pakeha interests. The information collected is relevant to what Pakeha rather than what Māori want to know. The second complaint is that the research is used against Māori for the purpose of fitting Māori into Pakeha determined moulds and to consequently assimilate Māori.¹⁴

So how does all this discussion about Māori research impact upon this project? The authority and experiences of other Māori researchers have greatly influenced the way this project has been carried out. Features such as using appropriate language, the personal approach, ensuring interviewees' comfort, establishing familiarity with the interviewer, accountability and ensuring benefits for the Māori community have been incorporated throughout the methodology of this project.

9 Jackson, M *The Maori and Criminal Justice System, A New Perspective: He Whaipaanga Hou, Part I* (Wellington, Department of Justice, 1987).

10 In the Rapuroa survey, the first important step to conducting the survey was to inform kaumatua of the project and to ask for their support. The leaders who had true mana on the marae and not in the Pakeha world were found.

11 In the Rapuroa survey interviews were conducted at participants' homes.

12 Milroy, S "Domestic Violence: Legal Representation of Maori Women" Masters Paper for Feminist Legal Theory Course Waikato School of Law 24.

13 Smith, G "Research Issues Related to Maori Education" in University of Auckland, Te Tari Rangahau o Te Matauranga Maori, *The Issue of Research and Maori*, (1992) 3-4.

14 Ibid, 3-4.

I believe my paper will answer questions for Māori current and future law students, Māori graduates and the wider Māori community. The paper will contribute to the ever-increasing Māori research theory, by informing other Māori about our experiences. Currently there is a lack of knowledge and theory concerning Māori law students and graduates. This project attempts to add to what is there.

2.3 MY PARTICIPATION

Initially, my role in this research project was as research assistant to Annie and Stephanie. Having organised, facilitated and carried out the project I should have completed my role. However, I then decided to embark on post graduate studies in law and so decided to use the research information for my LLM studies.

As a participant, researcher and writer of this paper I believe it is important that I clarify the way I have written this thesis. Where I have used the term 'I', first person singular, I am referring to my own personal opinion. Where the terms 'we/us/our' are used, this includes comments opinions gained from my fellow graduates (as a group generally) and does not necessarily include my own personal opinion. Where the opinion belonged to only one of us, I have used the words 'one particular graduate stated.'

As a Māori researcher and a Waikato Māori law graduate, I believe there have been some distinct advantages to being a participant, as well as being the researcher. First, the quality of the graduate's responses to the questionnaires and their level of participation in the interviews were increased because they were familiar with the researcher.

A second advantage is that when the group talked about the issues and experiences, as a participant-researcher I could easily understand and relate to the other graduates' korero. In collating the information, it has been important that as the researcher, I had a clear understanding of the history of the School and of our expectations and experiences.

Thirdly, as a participant, I am well aware of my accountability and responsibilities in handling the graduate's information. My knowledge of the project, their familiarity with Annie and Stephanie and the benefits of this research project to other Māori law students in the future, helped any suspicions or feelings of distrust to be dispelled.

To some, this participant-researcher position would have distinct disadvantages. The participant-researcher role is the complete opposite of the more commonly used scientific objective-observer role. Some may think this position is biased, and challenge the validity of the research. Further questions may be raised about the objectivity of the

researcher, and their ability to gather the information and interpret it in a way which does not influence the results of the project.¹⁵

While acknowledging this viewpoint, I believe that the advantages of my position as a participant-researcher far out-weighs the disadvantages.

2.4 MY ACCOUNTABILITY

My accountability as a Māori researcher to the participants and the wider Māori community is an important factor. I am accountable to those about whom I write, who have given me the unique opportunity of sharing their personal thoughts. I am accountable first and foremost to my fellow graduates who participated in this project. Your thoughts, your visions, your *mamae*, I thank you for sharing them. I have respected your trust in me to portray our experiences in the best way possible.

I believe this paper will provide an effective medium to put forward our experiences with the aim of enabling others to learn from our *whakaaro*. It is important that other Māori are aware of what we have experienced. It is important that those people who are given the opportunity to teach Māori students in legal education become aware of our experiences, in order to prevent the repetition of the same assumptions and mistakes by those at the School. It is just as important that the legal profession and the community are educated about our experiences in order to place 'checks and balances' on the dynamics of legal education and on those employers recruiting Māori law graduates.

As a Māori, my accountability automatically extends to the *whānau*, *hapū* and *iwi* of my fellow graduates I owe it to you to put forward a truthful account of your *tamariki* and *mokopuna korero*. To the support people who are the closest and dearest to our group, the contributions of your *mokopuna* and *tamariki* to this project are invaluable. I have handled their information, their *taonga* with the respect your *whānau* would expect. I thank you for this privilege. My accountability and responsibilities I have as a Māori who is conducting research about Māori experiences for the benefit of other Māori, I believe justifies my approach in this project.

Another accountability is to aspire to the aims of the project as originally conceived by the two creators of the project, Annie Mikaere and Stephanie Milroy. The opportunity to work alongside and learn from these two women is an experience that not many Māori graduates are given. I thank them both for allowing me the opportunity to work with them as their research assistant. Although my role in the project was small, I believe my thesis will contribute to the visions and continual academic leadership of these two prominent Māori women.

15 Walton, J "Qualitative Health Research Methods" in Spicer J (eds) *Social Dimensions of Health and Disease New Zealand Perspectives* (1994).280.

2.5 THE ORIGINAL RESEARCH PROPOSAL

In 1992, Annie Mikaere and Stephanie Milroy designed a pilot project to research:

- i) the progress of Māori graduates for the year following the first law graduation;
- ii) our perceptions as to the extent to which our legal education has equipped us for the work we were doing or wanted to do;
- iii) to ascertain what our experiences both during our legal training and in practice, to see what effect these might have had on our careers. Part of looking at our perceptions was an examination of the effect of the School's commitment to biculturalism and its effect on our training and employment choices.

Other important aims associated with the project were to maintain the Māori student network built up at the School; to encourage us to provide support to the current Māori law students at Waikato and, finally, to assist one of us with employment as a research assistant.

Originally there were to be four stages to the research project: completing a questionnaire¹⁶, designing the research methodology together with conducting the first round of interviews; compiling the results of the interviews and writing an interim report; a second round of interviews and questionnaires, and finally compiling the results and writing a second report.

Initially Annie and Stephanie decided that small group discussions with us as students would be the most appropriate method instead of questionnaires and interviews because Māori tend to respond better to oral discussion as compared to completing written questionnaires.¹⁷ Both lecturers knew us all extremely well and felt confident that we would participate in direct and open discussion within a small group environment.

An important part of the project was obtaining permission prior to participating and maintaining our confidentiality throughout the project. As a result, it was envisaged that we would then be empowered and would not feel whakamā about taking part.

Once the first questionnaire and interview stages were completed, it was planned that the data would be analysed and a copy of the report would be sent to us if requested. Stage Two involved a follow-up process with us one year to eighteen months later. At this time it was hoped that we would be able to provide insight into our employment choices and to comment on the relevance of our legal education to the nature of our employment.

¹⁶ see Appendix 1.

¹⁷ *Supra* note 5, at 53.

2.6 THE RESEARCH PROPOSAL'S DESTINY

The original research project did not eventuate as first planned by Annie and Stephanie due to certain obstacles.¹⁸ The first questionnaire, section on research methodology, conducting the first round of interviews and compiling of the results was completed. The second round of interviews and questionnaires, compiling of results and the writing of the second report was not completed .

The obstacles which led to the changes resulted from delay in the approval process of the University Research Committee. The value of the project as compared with other more commonly conducted science projects was questioned.¹⁹ The Committee further commented upon the 'uncertainties' of the methodology and the 'lack of experience' of the two researchers. The contribution of both these Māori women to Māori issues and legal jurisprudence, together with Stephanie's previous experience was not taken into consideration.²⁰ Despite assurances which were obtained from two senior Māori staff at Waikato University, who agreed to be supervisors, the whole experience emphasised the problem of the lack of recognition of Māori research.²¹

In terms of the University's overarching bicultural commitment, the Committee's commitment to promoting Māori research seemed to be uncertain. Due to these problems, time had passed and the researchers had to reorganise and change the programme. By that time, we were sitting exams and many had left our Hamilton term addresses. The aim of conducting small group interviews was no longer possible in view of the our wide dispersal.

2.7 THE COMPLETED PROJECT

In January 1994 a cover letter and a questionnaire²² was sent to our group of twenty three Māori law graduates, all of whom had identified themselves as Māori on the School's register of students. The response from the questionnaires was disappointing. Despite my constant follow ups, only six out of our group of twenty three returned

18 Milroy S, discusses the information on the original research project in "What Became of the Proposal" section of her Masters thesis paper titled *Waikato Law School an Experiment on Bicultural Legal Education*.

19 Idem.

20 Annie Mikaere is well known for her annual contributions to the New Zealand Recent Law Review and had a reasonable publication record. Stephanie has also made contributions in 1993 Women's Law Conference Papers, Waikato Law Review and New Zealand Universities Law Review.

21 Milroy notes that although the Committee did grant the research money, the issue was raised about how the Committee saw its role in relation to promoting Maori research. Considering the University's overall commitment to biculturalism, the promotion of Maori research should have been given more conscious consideration.

22 Although stated previously that Maori have an aversion to questionnaires, due to the delay in the approval process and the students' dispersal, questionnaires were eventually used.

completed questionnaires. A second copy of the questionnaire was sent to those who had failed to respond. Again the response was poor, resulting in only four more completed questionnaires.

A decision was then made to collect the remaining number of unreturned questionnaires, when conducting the interviews. The final number of questionnaires collected was thirteen. The remaining few chose to answer the questions verbally in the interviews because of the aversion to answering questionnaires.

On completion of stage one of the project, an evaluation took place about the usefulness of the questionnaires. The questionnaires were very thorough and required answers to thirty-one long ended type questions.²³ Some of us in the interview process expressed our feelings of not being able to relate to answering a set of questions on paper. One particular graduate commented:

Questionnaires often get answers which the person thinks the interviewer wishes to hear or only what one is prepared to place on paper. Perhaps some interviewing of individuals or groups, might elicit more worthwhile comments.

Instead, we preferred to participate in the interview process which allowed us more freer expression of ideas and unlimited space for our replies to the questions.

It became apparent, when gathering the completed questionnaires and talking with our group about the location of others, that the real number of contactable graduates was not twenty-three but seventeen. Of the six unavailable graduates, two were overseas and the other four graduates could not be contacted or did not wish to participate. Those of us who did participate in the project were located in four city locations: Auckland (three), Hamilton (eight), Rotorua (two) and Wellington (four).

The next step involved conducting the interviews. Permission to record was given prior to interviewing. Arranging where to conduct the interviews was influenced by our schedules and commitments on the day of the interview. For example, the majority of interviews were held in our own homes or flats. A small number of interviews were conducted in work places, and one took place in a public cafe.

On reflection, those interviews conducted in our own environments ensured a more relaxed and undisturbed interview. In contrast, the interview conducted in a public cafe was very difficult and certainly not the ideal interview location, even though it suited the interviewee's work schedule and commitments. The background noise of the cafe made the interview difficult to conduct and even harder to later transcribe.

The length of interviews, ranged from twenty to ninety minutes. Those of us who had already completed and returned the questionnaires took less time to interview. Right

²³ see Appendix 1.

from the outset, the interview process appealed to us all. The relaxed and informal manner of the interviews and the fact that all interviewees knew the interviewer, definitely helped us to feel free to converse. Looking back, I believe that my participation as a Māori researcher, and being someone who had knowledge of the kaupapa, helped the flow and success of the interviews. I believe that using another research assistant, unfamiliar with the graduates and the context of our kaupapa, may have resulted in less participation and co-operation.

2.8 ANALYSIS OF INFORMATION

In discussion with Annie and Stephanie, it was agreed that the writing up of the project would be split into two parts. Our experiences at the School, including our reasons for choosing Waikato and the whole bicultural issue were originally to be analysed by Stephanie, forming the basis of her thesis paper. The employment part of the project was supposed to be the basis of my paper. However, due to certain common issues arising from our group's responses, it was decided that the respective thesis topics would be changed to accommodate this information.

Both Stephanie and I acknowledge that the information which we have discussed in our respective papers will have a small amount of overlap, for example students comments, and information on the Schools' establishment. This is to be expected considering the interrelated nature of both papers.

PART III: WAIKATO SCHOOL OF LAW

3.1 BACKGROUND

The Waikato School of Law was formally established in July 1990, the fifth New Zealand law school and the first to be established in 90 years.²⁴ Historically, the New Zealand legal profession and legal education was based on the conservative English legal model.²⁵ Up until 1990 there had been little recognition of Māori issues, beliefs, values or customs in legal education.²⁶ However, in the 1970's Māori issues had great impact on the New Zealand public's awareness of the Treaty of Waitangi, and of Māori rights. The effect on the legal system was highlighted in the 1987 *Gold Report*,²⁷ which recommended that New Zealand legal education include a Māori dimension. The Gold Report supported the inclusion of a special section of Māori language and culture into the legal studies course.²⁸ These developments resulted in the establishment of the School.²⁹

3.2 TE MATAHAUARIKI

In February 1988, a report entitled *Te Matahauariki* recommended the establishment of the School. The report was the work of a research committee which had been presented with the task of preparing a case for the establishment of New Zealand's fifth law school. The report confirmed the demand for more law graduates in the region.³⁰

The meaning of Te Matahauariki is:

the horizon where earth meets sky; in a practical sense, a meeting place of people and their ideas and ideals; in a spiritual or metaphysical sense, aspiring towards justice and social equity. It alludes to a philosophy which reflects concerns that humans have for each other. It aspires to an environment of participation, of challenge, debate, and justice in the world as it was, as it is, and as we want it to be.³¹

24 Wilson, "The Challenge for Aotearoa / New Zealand Legal Education: The development of and Indigenous Jurisprudence and the Waikato Programme" a paper presented at the Conference On Emerging Educational Challenges For Law In Commonwealth Asia and Australasia: The Implications for Legal Education in Hong Kong April 1992, 2.

25 Burrows, J F *Statue Law in New Zealand* (1992) 3.

26 Gold, N Report on the Reform of Professional Legal Training in New Zealand (1987) 25.

27 *Idem*.

28 *Idem*.

29 Wilson, M "Waikato Law School: A new beginning" (1990) 14 NZLUR 103.

30 The report stated that an serious imbalance between the demand for legal services and the supply of lawyers and new law graduates existed. This imbalance is increased by the fact that over 50% of the demand for legal services occurs north of Taupo and while two thirds of the country's new law graduates are produced by the law schools' south of Taupo.

31 University of Waikato, Te Matahauariki - The Report of the Law School Committee, 1.

In this framework of Te Matahauriki, the School's development would contribute to improving the relationship between Māori and Pakeha societies:

More importantly the law school provides the opportunity to give meaning to the notion of a partnership of good faith that is central to the Treaty of Waitangi. The Treaty provided a meeting point for both Māori and Pakeha. It sought to encourage the integration of Māori lore and English law, a confluence of two streams of thought.³²

The report also considered other arguments for establishing a law school in Waikato, for example, the expense of expanding the existing law school at Auckland, and the needs of the Waikato university based on the concentration of Māori population within the region.³³

The School's establishment also showed the University's continued commitment to biculturalism. The Education Amendment Act 1990³⁴ and the University Charter expresses the obligations on all Universities to acknowledge the Treaty of Waitangi. Clause 1.2 of the Charter states:

To sustain and further develop a safe and health campus environment which reflects social, cultural and spiritual values appropriate to the University community.

To create and sustain an institutional environment in which the educational needs of Māori people are appropriately catered for outside the formally constituted Whare Wānanga; Māori customs and values are expressed in the ordinary life of the University; and the Treaty of Waitangi is clearly acknowledged in the development of programmes and initiatives based on partnership between Māori and other New Zealand people.³⁵

In an address to the Hong Kong Law Teachers Association in 1992, the former Dean Professor Margaret Wilson reaffirmed this commitment:

The three principal expectations of the School, namely, to provide a professional, bicultural, and interdisciplinary legal education contained within them internal contradictions and provided some challenges.³⁶

The establishment of the School, therefore, was seen as a fundamental mechanism whereby the University's commitment to bicultural jurisprudence would be reaffirmed. Secondly, the wider community would benefit from its aim to strengthen Māori and Pakeha relationships.

32 Idem.

33 Supra note, 31 at 13-18.

34 Education Amendment Act 1990, s18(b) states that the Council of an institution in the performance of its functions and exercise of its powers is to acknowledge the Principles of the Treaty of Waitangi.

35 University of Waikato, "University of Waikato Charter" in *The University of Waikato Calender 1996*, 59-65.

36 Wilson, M "The Challenge For Aotearoa/New Zealand Legal Education: The Development of An Indigenous Jurisprudence and the Waikato Programme" 3.

3.3 FURTHER DEVELOPMENTS

Following the completion of Te Matahauariki, a further report³⁷ was produced by the Council of Legal Education (CLE) in 1989. In support of establishing the School, the report emphasised the benefits of the geographical location of the University; the incorporation of a Māori perspective; and the importance of including a social science dimension in the law degree course.³⁸

The Working Party also identified the need to recruit law students from all different sectors of society, with the aim of reflecting the racial and social heritage of New Zealand.³⁹ Even more significant was the concern about the low numbers of Māori and Pacific Islanders enrolling in law schools. It was envisaged that the establishment of the School would help to address this imbalance.

In its desire to see the School established, the Council of Legal Education stated that it was:

“highly desirable that there be at least one law school in New Zealand which is not tied to the conventional past, and where different traditions can grow and flourish.”⁴⁰

The benefits of establishing a new law school reflecting change were compared to those of the traditional legal education. The CLE report acknowledged that traditional legal education was not moving with the changes in New Zealand society. As a result, legal education needed to take on a more sociological perspective, rather than concentrating mainly on the black-letter law.⁴¹

The report referred to the positive development of new law schools overseas which had taken up the challenge of changing legal education in other jurisdictions.⁴² Further the report noted the successful contributions these schools had made to legal education and the legal profession in their respective countries. In New Zealand, the CLE saw the School doing the same for this country's legal jurisprudence.⁴³

In particular, the new School would fulfil three main goals:

- a) to provide a legal education that included the professional courses required by the Council of Legal Education;

37 Report of the Fifth Law School Working Party Council of Legal Education April 1989, 3.

38 *Idem.*

39 *Idem.*

40 Wilson, M “Legal Education: Jurisprudence or Jobs? are Graduates equipped for Modern Legal Practice? The Waikato Legal Education Programme. The New Law Conference 1993: Conference Papers Vol 2 p91.

41 *Idem.*

42 *Idem.*

43 *Idem.*

- b) to provide an opportunity for a greater number of Māori students to qualify in law, and to develop a bicultural approach to legal education through the Schools curriculum and research; and
- c) to develop a curriculum that stressed the importance of studying law within its context.⁴⁴

Changes were about to take place in New Zealand's legal education system. A strong case was made for the development of the School. The School was destined to provide a new perspective and to contribute to this unavoidable change to legal education.

In 1989, approval for the establishment and funding of the new School was given by the Government.⁴⁵ A special grant was to be set up by the Government, to be paid over four years. However, in December 1990 the National Government unilaterally announced its withdrawal of the promised grant and of its support for the School's development.⁴⁶ The reason given for this reversal in policy was that too many lawyers were unemployed in 1990 and that the School's establishment would simply produce more lawyers.⁴⁷

However, by this stage the School was already prepared to start functioning. Sixteen staff had been contracted; the official opening had been organised; the construction on the buildings was nearly finished; the degree programmes had been drafted and approved; the library books were purchased and more, importantly, over 1000 students had applied to study law.⁴⁸ The University of Waikato could not close the School, due to the heavy investment of financial and human resources. In 1991, the Waikato Bachelor of Law degree (LLB) officially began.

3.4 THE WAIKATO SCHOOL OF LAW

The unique nature of the legal education offered at Waikato encompasses the notion of partnership, recognised as central to the Treaty of Waitangi.⁴⁹ The School is committed to:

the study of law and the legal system in the context of the society within which the law is made and applied...This recognition that the law and the personnel of the legal system do not operate in a vacuum, but within social, political and economic contexts, is viewed as integral to the proper modern study of law and enhances the

44 Idem.

45 Malcolm, W, in *Speeches from the Opening of the School of Law*, (1991) 15.

46 Supra note 45, at 11.

47 Idem.

48 Supra note 46, at 11.

49 Wilson M, "Dean's Introduction- Law At Waikato: Building a New Tradition" cited in *Speeches from the Opening of the School of Law*, Foreword, 1.

preparedness of Waikato Law graduates to meet the challenges and needs of a changing society.⁵⁰

Teaching law in context offers law students a unique legal training. This prepares them to become more aware of the wider issues in society.

At the official opening of the School in 1991, it became clear that the School's goals, aspirations and challenges had different meanings to different people. Tainui, the tangata whenua, envisaged that the School would play a major role in bringing the issues of the Treaty of Waitangi and longstanding Māori grievances to fruition.⁵¹ In their vision, Tainui saw a three-fold challenge that the School should meet:

- i) provide an opportunity to Māori students to graduate in law;
- ii) make sure the curriculum will reflect the critiquing of the law to take into consideration the rights of Māori to their land and culture; and
- iii) provide research to ensure Māori lore/law, culture and rights are recognised legally.⁵²

Therefore, right from the beginning, Tainui was affirming how the School would be of benefit, not only to the students, but to the wider Māori community. There was an expectation that the School should make a contribution to the Māori community. For Māori, the School represented an opportunity to take a formal step towards the acknowledgment of Māori as tangata whenua.

The Foundation Dean, Professor Wilson, acknowledged Tainui's substantial financial contribution to the School and replied to the challenge.⁵³ In her address Professor Wilson, stated the intention of the School:

It is now the task of the School to justify the faith within the School. We intend to do that through the graduation of Māori graduates, undertaking research that will assist the Iwi of the region to pursue their rights under the Treaty, and contributing to the debate on development of a legal system that reflects the values and aspirations of both Māori and Pakeha cultures.⁵⁴

Professor Wilson's words symbolised for Māori students and our whānau a guarantee that the School would not pay just 'lip-service' to Māori tikanga and that in practice, the School would provide an unique environment for Māori. As Māori we could feel proud to join an institution where the structures and the staff would encourage our

50 Idem.

51 Haggie, *supra* note 45, at 3.

52 Idem.

53 The contribution was made to the School's library fund, and it was crucial to the School considering the Government had withdrawn its support at such a late stage of the School's establishment.

54 Wilson, *supra* note 46, at 10.

participation and cater for our cultural differences. The School meant a new beginning, a new acceptance of Māori issues and renewed hope for the Māori community of the recognition of Māori law as guaranteed by the Treaty of Waitangi.

The University of Waikato itself met strong criticism over its newest development. The then Vice Chancellor, Professor Wilf Malcolm reiterated that there was strong opposition to a new law school when the job market was already over-supplied with graduates.⁵⁵ Many law graduates from the other law schools had not found employment. Responding to this concern, Professor Malcolm stated that the University saw the law degree from Waikato offering something new:

..not only a qualification leading to a traditional professional career in law, but also and importantly, provides a very valuable general education serving as a base for growing breadth of career opportunities.⁵⁶

Not only would the School produce more law graduates, but these graduates would be more skilled and therefore able to seek employment in a wide range of areas.

The second criticism the University faced, was over its commitment to biculturalism:

seeking to provide a large place for the concerns and values of Māori people in the life of the new school'.⁵⁷

Professor Malcom stated that this criticism was a reflection of aspects of New Zealand society.⁵⁸ The perception of critics that 'too much Māori' would not prepare students for the practice of 'real' law was unfounded. People were ignorant of the course content taught at the School and they failed to recognise that much of the law deals with Māori. This was reflective of those who dwell on the outdated traditional approach to legal education without recognising that society, like the law, changes.⁵⁹

As a Law II student at the time, however, the criticism confirmed for me that we continue to live in a colonised, racist and oppressive society. The statement was an indication of the uneasy pathway of learning which lay ahead for Māori students. After all, we had come to a learning institution made up of the very same members of this society.

3.5 MĀORI STUDENT NUMBERS

In 1994, the Māori population accounted for 21% of the total population in the Waikato region.⁶⁰ Māori make up a significantly higher proportion of the population in the

⁵⁵ Malcolm, *supra* note 45 at 6.

⁵⁶ *Idem.*

⁵⁷ *Idem.*

⁵⁸ *Idem.*

⁵⁹ *Idem.*

⁶⁰ Midland Regional Health Authority, *Report of the Midland Regional Health Authority for the year ending 1993/94*, (1994) 13. It should be noted however that in Te Matahauariki, the figure

Waikato region than in New Zealand as a whole. According to the 1991 Census figures, 33% of New Zealand Māori live in the Waikato area.⁶¹ Ideally, the composition of Māori students in the law school should reflect these figures.

Currently, Māori students are admitted into the School on their own merits and do not have the assistance of an affirmative action scheme. The rationale behind this decision is the reasoning that all students are to be academically prepared to study law.⁶² The Admission Committee takes into account the prospective student's relevant work experience and non-tertiary qualifications in cases where there are no formal tertiary qualifications.⁶³

Each University has its own admission policy:

At Auckland University, there are 'special places' reserved for Māori, Pacific Island, disabled and mature students. At Victoria University, there is a Māori students' quota in the first and second years only. Otago University does not have any reserved places for Māori and Pacific Island students, however those students close to entry requirement, are given special consideration. Canterbury University has a special admission system for first year students who can be exempted from the normal criteria selection.⁶⁴

Overall, the numbers of Māori students attending the School have increased from 1989 to 1995.⁶⁵ In 1989, Māori students made up 16.6% of the total student population. From 1990 to 1992 there was a slight decrease in the numbers of Māori enrolled, the figure dropping from 19.5% to 17.3%. The reasons for this decline are uncertain. However, I believe a contributing factor was the political upheaval we experienced as students in relation to the School's policies.⁶⁶ A second reason may have been that the initial build up of the numbers of Māori students from earlier years of Law Intermediate had worked through our legal education system, causing this decline. However this decrease was temporary and was followed by a steady increase of Māori students from 1993, to 22.5% in 1995.⁶⁷

A number of factors may have contributed to the increase in the numbers of Māori students. Firstly, as students and graduates our networking with our whānau, hapū and iwi may have been successful. In other words, we may have inspired others to come to law school. Secondly, the significant increase in awareness of the socio-economic and political issues which affect Māori, for example, issues relating to the Treaty of Waitangi

of approximately 30% was quoted being the total Maori population lived in the Waikato catchment area.

61 Midland Regional Health Authority, *The People of the Midland Health Region* (1994) 16.

62 *Supra* note 24, at 23.

63 *Supra* note 40, at 23.

64 New Zealand Law Society, *Training in the Law* (1993), 3.

65 see Appendix 2.

66 see 5.4.3 of Part V Our Experiences for further discussion on the Political Ramifications.

67 see Appendix 2, Waikato School of Law, Maori Demographics.

and the Waitangi Tribunal's role in dealing with Māori land claims may be a relevant factor. It would appear that more Māori are wanting to further their knowledge about these issues and to actively contribute in these debates. The expectation of many rangatahi to learn at a tertiary level the skills which are needed to help their whānau, hapū and iwi is common.

The improved profile of the School in the wider community may be another contributing factor. The reputation of our legal training in the wider legal community, combined with the success rate of employment of the first Māori graduates, may have contributed to the growth curve. The genuine interest in and acceptance by members of the legal profession and other law related employees of the contribution of our legal qualification may have contributed to the growth of student numbers in general. The support of local law firms which have played an active role in helping to teach course content, for example by running workshops, guest lecturing, sponsoring of events and providing scholarships, has increased the profile of the law school even further.⁶⁸

The increase in Māori staffing numbers may be yet another factor contributing to the recent growth of our Māori student numbers. From 1989 to 1993 the School had two Māori staff members. In 1993 another Māori staff member was recruited in a .5 position, however, this person later left. In 1995, the Māori staff numbers increased from two to seven. Two Māori academic staff were appointed, one to a full time teaching position and the other to a .5 position. In addition, a .5 Māori Liaison/Tutor position was created, and two Māori administration staff were employed. In 1996, another two Māori academic staff have taken up full academic positions bringing the total Māori academic numbers to nine.⁶⁹ Due to the success of the Māori Liaison, it is to be a full time position from 1996.

3.6 SUMMARY

The School was destined to create a change in the structure and delivery of New Zealand's legal education. In 1988, *Te Matahauariki Report* supported a strong case for the Schools' establishment considering factors such as: its location, the concentration of the Māori population, the regional demand for more legal services and for more law graduates. In 1989, the Council of Legal Education released the *Report of the Fifth Law School Working Party*, showing its support for a bicultural approach and the study of law in context.

⁶⁸ see for further information Waikato School Of Law Handbook; Under-graduate and Graduate Prospectus, (1996).

⁶⁹ This number is now reduced to eight due to the sudden loss of one of our Maori staff members. Despite the short period of time this member had joined us, her contributions, vitality and energetic personality have had a major influence on all staff and students at the School. She will be sadly missed, but forever with us.

The School was officially opened in 1991 despite the withdrawal of support from the then National Government and amidst criticisms of too much Māori and women emphasis.

Between 1989 and 1995 there has been a strong increase in the number of Māori law students. Some reasons for this increase may have been: successful Māori networking, the increase in public awareness of Māori issues, the increased profile of the School, acceptance by the legal profession, and finally the increase in the numbers of Māori staff at the School. It should be noted that these are not necessarily the only factors influencing Māori in their decision to come to law school.

PART IV: WHY DID WE COME TO LAW SCHOOL?

The decision to enter into a legal education environment is a big one for any aspiring student. For Māori, choosing a legal career involves a number of personal commitments, responsibilities, promises and aspirations. The factors which influenced our decisions to come to the School include whānau expectations, proving that Māori can study law too, wanting to be a Māori role model and perceiving the law as a means of helping people.

4.1 WHĀNAU EXPECTATIONS

Whānau expectations formed one of the major influences which determined whether we would study law. A Māori student is not an individual but an important link to the past, present and future generations of his/her whānau, hapū and iwi.⁷⁰ Traditionally, Māori society saw the whānau as the basic social unit. Jackson explains:

In traditional Māori society, the basic social unit was the whānau or extended family. Consisting of several related generations under the guidance of kaumātua and kuia, it was responsible for the interdependent support, education, and rearing of its members. Each whānau was tied by whakapapa to a hapū and iwi which gave overall organisation to its way of life.⁷¹

Although the process of colonisation has tried to completely destroy our collective whānau philosophy and structure⁷², it has failed. Māori kinship ties are still strong and the sense of collective responsibility still exists. Therefore it is not uncommon to hear Māori students referring to their whānau as being the most important element of their being.

Without my whānau I would be nothing, my whakapapa is everything and my family is the only reason I've made it this far.

The majority of us came to law school with the sole purpose of using our acquired legal skills to assist our whānau, hapū and iwi.

When I finally qualify, they [whānau] hope I will returnto do the vast amount of work that has until now been neglected at home. Tribunal claims have lost momentum and need to be revived. Administration expertise is required to really get our 'take' moving again. Legal expertise is required...right across the whole range of legal disciplines.....Māori legal expertise is vital as a component to facilitate change.

70 Pere, R “Te Wheke: Whaia te Maramatanga me te Aroha” in *Women and Education in Aotearoa (1988)* 8.

71 *Supra* note 7, at 76.

72 The laws which were set to deprive our people of their structure included legislation such as the Native Lands Act 1865 which individualised Maori land title; The New Zealand Settlements Act 1863 which provided for the confiscation of that land; The Tohunga Suppression Act 1907 which prohibited the practice of our traditional beliefs.

For many of us there was an unspoken expectation, that as Māori this was just part of attaining a legal qualification.

Family is the most important driving force. You have got all these relations that are waiting for you to fix up all these things here and there legally, especially about land things.

My expectation was that one day I would follow my father's footsteps in helping our iwi/hapū/whānau via our Runanga, trust etc.

Karena describes this purpose as a 'duty to serve our iwi'.⁷³ This duty places obligations and responsibilities on Māori students. During our time at law school, many of us were called upon, often at very short notice, to assist our whānau when the need arose. The whānau related requests placed on us were both legal and non-legal in nature. There was an unspoken expectation that we would assist with the varying requests, irrespective of what our work load or commitments were at the School. We were often subjected to extra stress as a result.

Whiu supports the view that Māori decide to do law because of their sense of responsibility to others.⁷⁴ Acknowledging this responsibility, the law is an effective tool for addressing our concerns about legal issues such as Māori land claims and Treaty of Waitangi rights. Our desire to study law is a means of obtaining that tool.

Similarities may be drawn from First Nations people in Canada, where the law in recent times has been perceived to be a mechanism to bring about the protection and enforcement of First Nations peoples rights.⁷⁵

Patricia Monture, a Mohawk First Nations lawyer, reiterated that having a law degree and being known as a lawyer is of secondary significance. The real work as an indigenous lawyer is the work with her people:

I, therefore, want to say that it is not the degrees that are important—the fact that I have a law degree—the fact that I almost have a Masters in Law—those are not the important things about me. They are just pieces of paper. The fact that I teach law at Dalhousie University—that is not the important thing. That job just makes it a little bit easier to do what my real work is and that work is with my people.⁷⁶

Similarities may be drawn between Montures perception of the 'real work' as an indigenous lawyer and our perceptions as Māori. Our cultural identity and the need to

⁷³ Karena H, "How Maori See the University: A Personal View" in *Developing Departmental Structures To Better Reflect The Needs of Maori Students* - A report arising from the HERO workshop held May 1990 at Waipapa Marae University of Auckland, 12.

⁷⁴ Whiu, L Unpublished paper for the University of Waikato School of Law Course 0860.405, *The Treaty of Waitangi in Contemporary Aotearoa*, 13.

⁷⁵ Purich, DJ "Affirmative Actions in Canadian Law Schools The Native Student In Law School", 85.

⁷⁶ Monture, P.A "Education and Self-Determination: A Pathway For the Future?" Keynote Address, Symposium III National Indian Education Forum, August 15 (1990).

support our people to become empowered are of paramount importance.⁷⁷ Our identity as Māori is essential to our survival. Donna Awatere articulates:

We are Māori before anything. What does cancer, sexuality, rape, individual survival, death, or anything mean without the survival of the Māori as a Nation. It is empty. Meaningless.⁷⁸

We too identify with our cultural heritage before our status as a lawyer. We have a sense of responsibility and accountability to our whānau, hapū, iwi and to the wider Māori community.⁷⁹

To work in a law firm as a Māori lawyer and not to be accountable to the Māori community is asking for trouble. Māori lawyers are still Māori first and foremost, their accountability and responsibility to their whānau, hapū and iwi, will never disappear no matter where or who you are.

The first allegiance for Māori is to their iwi, and secondly to the Crown after taking the oath on entering the legal profession. It is not uncommon for those Māori lawyers to have conflicting interests.⁸⁰

4.2 PROVING THAT MĀORI CAN STUDY LAW TOO

Previous experiences of feeling alienated in a predominantly Pakeha school environment have motivated many Māori to achieve. There is a significant link between education and the social and economic position of Māori.⁸¹ Statistics on Māori socio-economic status constantly reiterate that our people are at the lowest level in New Zealand society.⁸²

Growing up feeling disadvantaged and resentful of the socio-economic differences between Māori and Pakeha, influenced one particular graduate to choose to study law:

I wanted to prove to them [Pakeha] that I was just as good as them. A lot of my school mates, the pakeha ones, who were going on and doing things. I knew that I had beaten them in things like maths exams and school cert subjects. I could beat them just like certain people and here

⁷⁷ Whiu, L, "Cultural Identity?" Unpublished paper, 7. The role of identity as a tool which can be used to achieve freedom from our history of colonial oppression. Maori become empowered to create our own process and to carry on affirming our identity.

⁷⁸ Awatere, D *Maori Sovereignty* (1984) 45.

⁷⁹ *Supra* note 7, at 76.

⁸⁰ Sykes, A "How are Maori Women Doing 100 Years Later? in *1993 Women and Law Conference Papers*", 162.

⁸¹ Statistics New Zealand, *New Zealand Maori Now*, 25. Maori students are more likely to leave school without any formal qualifications of any sort as compared with non-Maori. However there has been a steady increase of Maori students attaining higher qualifications at secondary school, effectively contributing to the increase in Maori students numbers enrolling at tertiary education.

⁸² *Ibid*, 1.

they were, their parents were rich. Their parents could afford to send them places. I wanted to show them. I wanted to show off my people.

Having a law degree and being labelled a 'lawyer' gave the false notion to some of us that our future would be secure. It is a common perception that a certain status is accorded to a person who has obtained a law degree.⁸³

I thought a law degree would impress employers more than a Bachelor of Arts or Bachelor of Social Science.

For another particular graduate, it was a desire to be free of the stereotype that society had placed on Māori as being incapable of succeeding in life that activated his or her decision to study law.

Seeing a lot of my whānau on the dole, it sort of encouraged me in some way to achieve something. I didn't want to be stuck to that stereo-type, to that sort of way of living.

Māori, particularly the young, are often victims of negative self perception, not only about themselves but also their 'cultural place' in New Zealand society.⁸⁴ Māori experience constant messages from Pakeha society that our racial identity and economic status is inferior and that we are therefore unequal. Such pressures cause feelings of insecurity and consequently erode ones self esteem.

This perception of being destined to fail is not an indictment on Māori or the system, according to Rikys.⁸⁵ Education is a key factor to socio-economic status. Māori experience problems performing in the present education system. Main stream education, it is argued, is a tool of oppression preventing Māori from succeeding.⁸⁶ Māori are a minority group and the education system is determined by the dominant Pakeha culture.⁸⁷ This culture emphasises excellence in performance on an individual and competitive level compared with the collective approach for Māori.

The differences between Māori and Pakeha ways of learning were reinforced by one particular graduate:

We [Māori] can understand, the way we learn is by observing and another way is by relating things to the world, to the real world. The way we see things and a good teaching method...a useful tool when you are talking to Māori is to use analogies and relating things to other things. If you can relate it to something that Māori can relate to it would make more sense for the Māori student. It is the same for law.

83 Supra note 73, at 12.

84 Supra note 7, at 159-160.

85 Rikys P, "Education -The Price of Learning with the System", (1993) 38.

86 Idem.

87 An exception is made with reference to educations programmes such as the successful Kohanga Reo and Kura kaupapa units throughout the country.

Pakeha learning is competitive whereas Māori learning is inclusive and you wait for the slowest person to catch up and you wait for them to click onto the knowledge before you progress. So that would be the ideal thing for Māori.

Ideally as students we preferred to learn as a collective group with teaching methods and in environments which nurtured Māori kaupapa. The Māori social values, priorities and holistic world view often clashes with Pakeha culture, resulting in Māori being victims of low achievement.⁸⁸ The justice system stems from the same cultural foundations as the education system.⁸⁹ Under-achievement leads to under-representation in professions, including law.

4.3 TO BE A MĀORI ROLE MODEL

Māori are under-represented in the legal profession.⁹⁰ Some reasons for the low numbers of Māori in the profession include financial barriers to gaining a law degree, discrimination in the private sector, and disillusionment with the monocultural Pakeha legal system upon graduating.⁹¹

There is a need for more Māori lawyers in private practice, so that we can provide legal service to the many Māori people who go through the justice system. On a Monday morning in a District court one can see how many Māori are waiting to be dealt with by the Courts. There are too many Māori defendants in court and not enough Māori legal counsel. Two of our graduates were motivated to study law as a result of this imbalance.

One of the things I noticed when I went through the court system myself was the lack of Māori on the other side.

It was really uncomfortable, I was on the wrong side of the law and there I was, waiting in the District court and all the other people, like about 80% of us, were Māori.

These comments reflect the common perception held by Māori about the justice system and in particular the institution of the courts. Jackson describes the courts as monocultural, Westminster-style bureaucracies which are institutionally racist and which provide a culturally inappropriate approach to Māori beliefs. Hence the reasons why feelings of uneasiness are experienced by Māori in the court system.⁹²

However, discussion about the way Māori are dealt with by our legal system, as identified by Jackson, is only part of a larger picture. Monocultural attitudes, values and beliefs have permeated throughout a number of major social structures for example the

88 Supra note 7, at 71.

89 Ibid, 12.

90 Gatfield, G *Women in the Legal Profession*, 65. Although this study focused upon women in the legal profession and not men. I believe the reasons can equally apply to Maori men too.

91 Idem.

92 Supra note 7, at 127-135.

education, health, justice and social policy systems.⁹³ As a result, Māori have been conditioned into believing that our beliefs, culture and traditions do not have a place in today's society. This oppressive action of the dominant Pakeha culture has caused Māori dispossession of their land and economic resources.⁹⁴ The Māori cultural and economic base has declined as a result of this oppression. Today the oppression continues and has attributed to there being a higher number of Māori defendants than Māori counsel.

The lack of Māori practitioners to deal with Māori related issues and the consequences of this shortage for the Māori community, was a major influence for another particular graduate.

I noticed a distinct lack of expertise in areas of Māori Land law...and externally in the legal profession. Māori were therefore forced to use Pakeha lawyers who while legally capable, had little or no capabilities dealing with Māori, Māori land, Māori Land Court. The result was Māori subsidising inept Lawyers- predominantly Pakeha.'

Despite the increase in Māori-related legal work such as Māori land claims and the Treaty of Waitangi there are still inadequate numbers of Māori lawyers practising private law. As a result, many Māori clients are going to see Pakeha lawyers to deal with problems. Many of these Pakeha lawyers can not relate to or understand the needs of their Māori clients.

The issue of the inadequate numbers of Māori lawyers is even more significant for Māori women practitioners.

What I wanted to do is become visible as a practising lawyer and a Māori woman you know because you just don't see them. I want them to see me and think, that Māori woman is a lawyer ... I think its really important.

Sykes has indicated that the invisibility of Māori women in the law is a 'significant feature' which occurs at all levels of the legal profession.⁹⁵ Māori women are invisible not only in private practice but also in the judiciary. Even in the Māori Land Court, where tikanga and te reo Māori is widely supported, there are no Māori women judges. Further compounding the invisibility of Māori is the lack of recognition and status accorded to the Māori Law Society by the New Zealand Law Society.⁹⁶ Until such time that dominant Pakeha culture is willing to recognise, accept and constructively change this imbalance the invisibility will continue.

93 Supra note 1, at 12.

94 Jackson, M "Paper Prepared for the Staff of the School of Law, University of Waikato".

95 Supra note 2, at 164.

96 Idem.

On the positive side, the role-model situation previously discussed in this section was the encouragement some of our graduates gained from the achievements and advice of other Māori lawyers.

I was interested because a relative of mine was a lawyer.

I spoke to Rawiri Rangitauira before coming to law school...he convinced me.

Knowing someone who practises law and seeing their successful career paths provides positive role modelling to other prospective Māori law students.

4.4 THE LAW AS A MEANS OF HELPING PEOPLE

A career in law can be seen as a People-Oriented Profession. This means it is a career which involves continuous people contact. It may be perceived as a practical profession. When choosing a career the element of being ‘people oriented’ was an important influence for some of our graduates.

I didn't intend to do law, I started out doing Bachelor of Management Studies and took Law Intermediate as a side line. But when it came to choosing law or accounting, I found law more people orientated so stayed with it.'

I wanted to be in a position in which I could help people, work with people, in an environment that was mentally stimulating,one I would find personally satisfying.

This personal satisfaction may not come from being a barrister, or partner in a law firm or even from becoming a member of the judiciary. For some graduates, personal satisfaction lies simply in being of benefit to our whānau, hapū and iwi as discussed earlier.

4.5 SUMMARY

The influences contributing to the Māori graduates' decisions to come to law school were; whānau expectations, proving that Māori can study law too, to be a Māori role model and finally using the law as a means of helping people. The major influence was our whānau expectations, combined with our inherent responsibility to assist our own whānau and the wider Māori community.

4.6 WHY DID WE CHOOSE WAIKATO SCHOOL OF LAW?

Once the decision had been made to study law, Māori students needed to select which law school to study at. The choice of law schools currently available in New Zealand to prospective students were: Auckland, Waikato; Victoria; Canterbury and Otago. As discussed earlier, Waikato offered Māori a different legal education to that offered by other law schools, with its avowed commitment to biculturalism.

4.6.1 THE KAUPAPA OF BICULTURALISM

The School offered all students a radically different legal education. The challenge for the School was to provide a professional legal education, founded on the common law traditions and culture of the United Kingdom, while including ‘on the basis of parity, the laws of Māori.’⁹⁷

For Māori graduates, Waikato offered a legal education which would help bring change to a monocultural legal system which has traditionally ignored the rights of Māori and the importance of the Treaty of Waitangi. We were already politically aware of issues pertaining to Māori from our every day lives. Davis notes that although there was a wide diversity of Māori students, the universal thing which Māori were coming to the School for was to see and bring about change to the legal system.⁹⁸

Many of the Māori coming to Waikato are destined to create change. This is the generation born in the period of the early sixties to the early seventies. Those that came to university are frequently far more politically aware than their lecturers in the classroom. Many students are borne out of adversity, we survived the racial backlash that swept the country during the militant mid seventies and mid eighties.

We wanted change and we saw the School as an institution which could deliver the power to make that change.

For the majority of Māori graduates the major attraction in selecting Waikato was the concept of biculturalism. Graduates felt that Waikato offered something unique compared to other law schools. The difference was a recognition of the importance of Māori kaupapa in a legal learning institution.

First and foremost, because of its founding kaupapa of biculturalism. I had been accepted also into Victoria, but actively chose not to go there in preference to what I saw Waikato offering.

I went to Waikato Law School because of Māori Issues. Māori land law issues in particular, Treaty issues.

Because I heard it was going to have a bicultural philosophy.

The [bicultural] reputation of Waikato School of Law.

Until the late 1980’s legal training and education of the profession had its own exclusive background and traditions.⁹⁹ Jackson describes this situation as monocultural legal concepts in a bicultural country. The role of the law in Māori and Pakeha relations provides a challenge to legal training and the profession. For Māori, the legal system has been constructed to the detriment of Māori.¹⁰⁰ It reflects the traditions, practices and systems of the traditional English legal system or ‘the Westminster

97 Supra note 40, at 4.

98 Davis, supra note 1, at 18.

99 Supra note 7, at 135.

100 Idem.

system'.¹⁰¹ As a form of social control, the law influences the lives of all New Zealanders. Its body of rules, structures and processes all contribute to regulating social order in society.¹⁰²

4.6.2 LOCATION

A considerable number of Māori graduates saw the location of the School in the Waikato region as an important influence towards deciding to study here. The location of the School was important because it allowed students to be close to whānau. Many of us lived with whānau within the Waikato region and recognised the importance of continuing our strong family support to help us through our legal training.

I only applied to two schools, Waikato and Auckland. Anything further south was too far from home for me.... I was glad I got into the Waikato because it still had a bit of that 'rural' feel to it.

Whānau support included those relatives or friends who were already part of the University campus as staff or students. We are often drawn towards other Māori for support.

Auckland was too far from home. I wanted to be close to the family. I had been to Waikato on a school excursion trip and I saw that it seemed really relaxed and open. A lot of our people from Tuhoe go to Waikato so I thought well I will just follow the trend.

The need to have and maintain whānau support systems was a crucial factor to our successful progress. The University environment is not often perceived as a friendly environment to new students. Because the tertiary education system, as discussed earlier, is based on a very individualistic and competitive environment, for many Māori this is a continuation of the education system they have previously experienced.

As members of a collective or communal group we have responsibilities to other members.¹⁰³ To receive support from our own whānau automatically implies a reciprocal obligation for us to give support in return. Not only did we look to our whānau for support, so too did our whānau turn to us for support. This is an example of the holistic nature of our culture and our belief systems.

4.6.3 SUMMARY

There were two distinct factors which influenced why Māori graduate's chose to come to Waikato ahead of the other four law schools in New Zealand. These two factors were the School's reputation of offering a bicultural legal education and its location.

¹⁰¹ Ibid, 37.

¹⁰² Ibid, 112.

¹⁰³ Supra note 73, at 12.

The School offered a legal education which the graduates thought would include the fostering and encouraging the discussion of Māori lore/law and tikanga in its course content. The School's location, being closest to the Māori graduates' whānau support, was another important factor. Whānau support is essential to the success of the students' progress throughout our legal education. Without this constant support, Māori students will not function effectively in any learning institution.

PART V: OUR EXPERIENCES

In this section I discuss our experiences at the School. Each part includes discussion on our expectations and experiences. It should be noted that every part is intrinsically interrelated to the others and cannot be easily isolated.

Our experiences at the School were mainly negative in nature. They included: isolation, cultural discrimination, racism, having to educate Pakeha staff and students, being affected by the political goings-on at the School and, finally, disappointment at the absence of a bicultural law School.

We had few positive experiences and they included our Māori support network, being taught by two black overseas lecturers, the support of our Māori lecturers and learning new skills.

5.1 BICULTURALISM? WHAT BICULTURALISM?

The strongest expectation we had as a group was that the School would provide a bicultural legal education. What did this mean? As students we believed that a bicultural law school would have a high level of Māori in its structure and content. One particular graduate spoke of what s/he expected the bicultural content would contain:

That there would be more Māori lore content than there was.

To the Māori students, biculturalism meant incorporating Te Reo Māori and Tikanga Māori in all the courses taught at the School. It also meant that the School's course structure and staff would reflect this commitment.

I had heard a lot of good things about the school, how it was breaking new ground for example biculturalism. I expected a lot of Māori... I didn't think there would be so many lecturers from overseas, some how. I expected a more relaxed, less formal, friendlier atmosphere than Auckland.

The expectation that we would be educated in Māori lore, seemed to be a natural one considering we were supposed to be attending a bicultural law school. As Māori, we needed to learn about what was important to us, about our own cultural heritage. We were not experts in all things Māori, just like Pakeha people are not experts in their traditional beliefs and customs. We believed that the School would not only help build our knowledge of the law, but would help increase our knowledge of Tikanga Māori. Why was Māori lore so important to us as students?

Traditionally, Māori lore was founded upon a system of law as recognised by Māori. Jackson noted that, taking into account tribal variations, a 'distinct set of conventionally approved means of ensuring acceptable behaviour existed long before the Pakeha

Westminster jurisprudence'.¹⁰⁴ Māori traditions were founded upon an underlying set of beliefs which helped Māori society to function.

The School had publicly stated that the legal education it provides is founded upon the principle of 'biculturalism'.¹⁰⁵ How the concept of 'biculturalism' is to be transformed into practice in the School's structure and framework is a problem the School and the University of Waikato still faces.

The terms biculturalism and bicultural first emerged in the 1980's.¹⁰⁶ Biculturalism is a term not easily described. However, according to the former Dean, Professor Wilson, in the context of the School a responsibility exists to:

create the conditions to enable an equal partnership to be achieved both within the legal education and within the wider legal system.¹⁰⁷

The School accepts that in reality biculturalism does not exist, however, it maintains that it is taking active steps to achieve the desired outcome.¹⁰⁸ Jackson articulates that biculturalism in a law school:

...requires more than the acceptance or creation of a new myth of judicial sensibility. In essence it requires an acknowledgment of the political nature of law, an acceptance of its peculiar cultural biases, and an honest reappraisal which recognises that the will to empire proceeds most effectively through the imposition of an alien rule of law.¹⁰⁹

So according to Jackson biculturalism involves a whole new focus of de-colonising our thoughts about Pakeha law. Focusing on the law as it was and as it is in a Pakeha framework is not enough. As a legal institution the School has the responsibility to all its students to teach about how the rights of indigenous people were subordinated by western legal thought.¹¹⁰ As a result, Māori, like other indigenous peoples, have suffered and still do from this imposition. Concerned about preserving tikanga Māori, Sykes provides a cautionary note for all law schools:

The question I would pose is given the inherently monocultural and racist nature of these institutions it must be asked whether these institutions can in fact promote Tikanga Māori as part of any course. A genuine fear is that our Tikanga will be

104 *Supra* note 7, at 37.

105 Reference to this statement has been made in speeches by Her Excellency Dame Catherine Tizard at the opening of the Law School, by the former Dean Professor Margaret Wilson in "The Making of a New Legal Education in New Zealand (1993) 1 *Waikato Law Review*, 121; "The Challenge for Aotearoa/New Zealand Legal Education: The Development of an Indigenous Jurisprudence and the Waikato Programme" (1992), 2; and in the Dominion newspaper, Saturday August 24 (1991).

106 see Schwimmer E "Maori People in the nineteen-sixties." (1968) in Milroy S *Waikato Law School an Experiment on Bicultural Legal Education* (1996) 18.

107 *Supra* note 24, at 4.

108 *Idem*.

109 *Supra* note 94.

110 *Idem*.

pocketed into a framework of legal analysis that diminishes its significance because of inadequate resources being allocated to develop the Kaupapa appropriately and the need to accord validity to Māori law after 150 years of invisibility in these ivory towers will be undermined from the outset.¹¹¹

So even if institutions were to incorporate tikanga Māori in courses, serious concerns must first be addressed by those in power. The monocultural attitudes implemented in the institution have to be dealt with first. Unless the people who run the institution are prepared to truthfully evaluate their own opinions, values and beliefs about their attitudes to Māori kaupapa in the legal system, then it is pointless to attempt to teach and promote tikanga Māori. How can that institution be seen to give the validity to Māori kaupapa, if the people who are at the decision making levels have not faced their own prejudices first.

The second concern is that if the institution's attitudes have changed to one of total support and validation of Māori kaupapa in the legal system, then this support must be reflected throughout its structure. Not only do attitudes need to change but also adequate resources need to be given to ensure that Māori kaupapa is developed appropriately and effectively.

The process of implementing Māori kaupapa should be determined by Māori and not within the framework of a Pakeha legal analysis, which would just repeat the current situation of oppression.

Unless legal institutions are willing to go through the above steps, Māori are no better off. It is arrogance on the part of those in positions of power and control to try and set up a legal institution which does not acknowledge the rightful place of Māori, and continues to maintain the dominant culture's beliefs and values instead.

Sykes further notes that law schools fail to respond to Māori input in legal education, for example the lack of Te Reo Māori as part of the mooted process or as part of the examination procedure.¹¹² Again this can be attributed to the beliefs and perceptions of those who hold the power in these schools.

The explanation of biculturalism by both Jackson and Sykes was supported by some of the graduates' opinions.

The definition of biculturalism of the Treaty relationship of where the law school stands and that is still being defined by those in power and not those with the idea that biculturalism is almost appending to the mainstream legal thought. People argue these things can benefit for their future generations. That dynamic is going on all the time. You can't just come up with some grand principles and not actually practically put them into place.

¹¹¹ Supra note 2, at 164.

¹¹² Idem.

The biculturalism I think was sort-of-keep-the-cat-off-my-back sort of approach taken towards it. There were the odd courses, designed specifically to bring in the Māori sort of side of things, but I believe that was only because people pushed for it. I think if people had their way biculturalism would just be out altogether. A whole law school is based on principles of biculturalism, but it doesn't mean to say that the content is going to be like that.

If a bicultural jurisprudence aims at incorporating certain aspects of tikanga Māori, then in reality what is happening is that Pakeha law still dominates and Māori law is an addendum to the issues of real law.¹¹³ As a consequence, biculturalism is a perpetuation of Pakeha power to define and control tikanga Māori within Pakeha concepts and institutions. The School is one of those institutions.

Despite the School's attempt to incorporate a bicultural approach in some of its courses¹¹⁴, the real test for success was whether it met the standard expected by the Māori students and their community.

5.2 BICULTURALISM—OUR EXPERIENCES

In reality, the School did not meet our expectations of kaupapa Māori in any of the courses.¹¹⁵ Instead what we experienced was a tokenistic approach of small pockets of 'the Māori perspective' taught by non Māori lecturers who had little or no knowledge of anything Māori.¹¹⁶

I thought the law school was going to be bicultural. Then to arrive at law school and we had ...lecturers who know nothing about Māori. Who had the audacity to stand there and talk about Māori things and the great audacity to mark us on it.

A bit more bicultural than it was and not having to teach some lecturers about Māori kaupapa....I was the student.

These comments highlight a number of important issues. As cautioned earlier by Sykes, the School was unprepared to deliver a Bicultural legal education. The lack of human resources, specifically, Māori staff to teach Māori kaupapa, resulted in us being taught by Pakeha staff who were trained in main stream legal education; not Māori kaupapa. The commitment of the School to biculturalism was questioned because of the fact that the staff brought here to teach law were not qualified to teach any part of a Māori kaupapa. An exception to this rule would be the two Māori staff members the School

¹¹³ Supra note 94.

¹¹⁴ Courses such as Legal Method, Legal Systems, Maori Land Law, Treaty of Waitangi in Contemporary Aotearoa.

¹¹⁵ Legal systems course in 1989 covered the Maori perspective in relation to the development of law and the Treaty of Waitangi issues.

¹¹⁶ A fuller and more detailed discussion about the issue of non Maori lectures teaching Maori components of a course is given in the next section.

had employed. However, to expect these two people to teach all the Māori kaupapa in all the courses at that particular time, was totally unfair and unrealistic.

There appeared to be no formalised thought given to what a bicultural law school would need, from those who were in power to pass these policies. It was left to some individual lecturers to give the School its bicultural kaupapa and not the whole staff.

When we realised that the School was not delivering a bicultural legal education, many of us felt disillusioned and disappointed. We had been led to believe that the School would be bicultural but in reality the School had not lived up to its promises. The effect on us was damaging. We had been let down.

I was excited about going to Law School, I thought it was bicultural. After my first week of Law school I went home because I became so disheartened, I went home and I cried and I cried.

The disillusionment we felt was clearly evident. As Māori we felt disempowered, stripped of our right to be recognised as the tangata whenua.

The School had not met with the responsibility it had to its Māori and non-Māori students.

I was naive in thinking that the law school would be a bicultural one. Hah!

We realised at the early stages of our legal training that the School was not going to live up to its philosophy and this caused us to have serious questions about the School's so called commitment to Māori.

For one particular graduate the School represented an institution which was dominated by one culture: Pakeha male ethos.

Yet another mono-cultural, male dominated education institution.

This reinforces what has been mentioned earlier about the oppression of Māori by Western culture. The second point raised is the sexist nature of the profession. It has been noted that the Legal profession has been dominated by men right up to the 1990's.¹¹⁷ Likewise, in the legal education system, men continue to dominate despite the increasing numbers of women in the profession.¹¹⁸

5.3 SUMMARY

The School's philosophy of biculturalism appeared to challenge and bring about changes to New Zealand's legal education. For Māori students, our expectations of a bicultural law school envisaged a fifty-fifty Māori-Pakeha staff structure and course

¹¹⁷ Supra 90, at 65.

¹¹⁸ Idem.

content, catering for Māori kaupapa. What we experienced instead was the traditional legal education with some small parts of a Māori perspective being incorporated. This illustrated that the School had an 'ad-hoc' approach to biculturalism. Our legal education was mono-cultural. Those who taught these parts, were qualified in the dominant legal system, but unqualified and inappropriate to teach our Māori tikanga.

As Māori we were disillusioned and vastly disappointed with a system which we thought would uphold our status as tangata whenua. It was obvious from our early experiences that we were about to undergo a number of disappointments at the School.

5.4 FOUNDATION LECTURERS AND LECTURE CONTENT

In 1990, the foundation staff contracted to the School to teach law consisted of equal numbers of women and men; totalling sixteen staff.¹¹⁹ The majority of the staff came from various overseas backgrounds and cultures. Only four staff were from New Zealand and one of these four had lived overseas for a number of years. Of this number only two staff members were Māori law lecturers. The School had no Māori staff in any senior positions.

In 1993, when we were completing our last year at the School, the teaching staff number had increased to twenty-three staff. The Māori staff numbers remained at two and still no senior positions had been filled by Māori. Professor Wilson attributed the unsuccessful active recruitment of Māori staff as being the reason behind this situation.¹²⁰ Questions may be raised about the methods used for recruitment of Māori staff when it appeared that most of the successful applicants for teaching positions at that time were obtained through advertising overseas. From the staff who did gain appointments at the School, the majority of them were from overseas. Their style and methods of teaching were different. These factors alone were to have a great impact upon Māori students at that time.

5.4.1 THE LECTURERS

For many of us, the most positive experiences we enjoyed were due to the expertise and political awareness of two black indigenous lecturers. Both lecturers were highly qualified in law¹²¹ and brought to the School their wealth of knowledge and experiences in the legal areas of constitutional, human rights and criminal law. Many of us established close staff-student relationships with these two members of staff.

[Name] Yes... he opened our eyes to a lot of positive things.

¹¹⁹ Supra note 46, at 10.

¹²⁰ Supra note 24, at 4.

¹²¹ One was an Associate Professor (LLB (Hons)Ghanda LLM (Hons) Dem) and had years of academic experience. The other lecturer had the following qualifications: BA Lesotho LLM Lond LLM ANU.

[Name] knew where we were coming from and [Name] was good to go in and talk to. By getting rid of [both lectures names] we were getting rid of two of the most brilliant people up there [law school].

We felt safe with these law lecturers because they identified with us as indigenous people. A lot of our experiences as students at a monocultural law school were similar if not the same as their experiences. Our difficulties became their difficulties too. The stresses we were experiencing as members of a minority indigenous group being taught law from the dominant legal culture, were understood by these two people. Both these lecturers went out of their way to give us the support that we needed but which was lacking at the School.

At times you certainly felt Māori...A lot of ways particularly with the lecturers from overseas (reference to two indigenous black lecturers) they actually took a lot of interest in you and were willing, really willing to give you a hand with anything you needed.

For many of us both lecturers and the two Māori staff were excellent role-models. They attempted to give us the support we needed because all of them had been through similar experiences to those we were going through.

The responsibility to deliver the kaupapa of biculturalism within the School's courses effectively lay with all staff, the majority of whom were not from New Zealand and who knew little or nothing about Māori kaupapa. This raised serious issues. Davis articulates these issues:

What gives these tauhou the right to even enquire into areas that have traditionally been considered the domain of a select few, chosen by the hapū to be the receptacles of such knowledge? How can Pakeha be so arrogant to even presume to teach a "Māori perspective" on anything? The fact is that these Pakeha have usurped these rights and they have just presumed they can do the job.¹²²

By allowing this to happen the School was accepting the role of being a traditional law school and it was not challenging the delivery of legal education at all. Māori input into the course content at that time, amounted to making referrals to and conducting brief discussions about the Treaty of Waitangi and a Māori perspective in the various areas of law.¹²³

If these people knew nothing about Māori kaupapa, whose responsibility was it to teach this part of their courses? Of course the obvious responsibility fell upon the two Māori lecturers initially. An unrealistic expectation was held by the School that these two lecturers, who had their own teaching workload, would also teach Māori kaupapa in other courses. The Māori staff were also expected to consult with the Dean about any 'other' Māori issues' which arose at the time. The pressures placed on these two people were ridiculous, to say the least.

¹²² Supra note 1, at 34.

¹²³ This happened in courses such as Jurisprudence and Public Law B.

Some staff took up the challenge, to ensure that they did incorporate some Māori kaupapa in the courses they were responsible for. Acknowledgment for one special staff member was shared by one particular graduate.

One positive thing about Waikato law school was that they dared to at least to attempt to talk about those kind of issues. I don't think they dealt with them in a way that is acceptable, but they did attempt it. Most of the due credit for that is owed to people like [name of lecturer] who took us for legal systems. She has got an 'on-to-it view' about women's issues and Māori issues.

The course content in this subject explored the historical development of the New Zealand legal system from the traditionally Westminster system, its impact on Māori and non-Māori societies historically and contemporarily.¹²⁴ The truth about the oppression of Māori and other minority groups, for example, women, was openly and truthfully dealt with by this lecturer. Although it may have been painful for many students to hear about what had happened during the colonisation of New Zealand, it was still incorporated as an important part of the course content. Even more importantly, the lecturer made sure that Māori kaupapa was taught to the class by a Māori guest lecturer, someone of authority.¹²⁵

Unfortunately, this staff member was one of the few who had attempted to challenge the traditional legal education. This still left a big gap in knowledge concerning Māori kaupapa in those courses which were taught by other staff members. In these situations it was the Māori students who were expected to compensate for the lecturers lack of knowledge. The impact on the students was devastating.

5.4.2 MĀORI EDUCATING PAKEHA

One of the most negative and yet the most common experiences we had as students was the constant expectation to teach the lecturers and non-Māori students about Māori issues.

If there were lectures on Māori content you were almost made to justify what was going on in class because you were a Māori student, whereas you know we weren't there to give lectures, we were there to be taught and so those were just some of things I found difficult.

It was hard enough for many of us to be exposed to the 'culture shock' of studying at the School without having to justify our existence as an indigenous group. As a group we did not expect our School to teach law in a way which would make us feel so demeaned.

In those classes with fresh-off-the-boat lecturers the onus in actual fact fell on Māori law students to teach the class about a part of the

¹²⁴ see Waikato School of Law, Calendar (1996).

¹²⁵ As a student I can remember Moana Jackson and Ani Mikaere both being guest lecturers who taught the whole class about the impact of colonial law on Maori.

curriculum. Now firstly, that is not acceptable in pakeha standards and secondly, I mean no other course would expect the students to teach the class on a topic....But some how it seems to be acceptable when we are talking about Māori topics and I don't think that's good enough.

As a result of this discrimination we experienced feelings of frustration, resentment and anxiety. We found it very difficult to learn when we were constantly being subjected to unnecessary racial discriminatory pressure.

5.4.3 POLITICAL RAMIFICATIONS

In the period of 1991 through to 1992, both non-Māori and Māori students became pro-active in challenging the principles on which the School was founded. In 1991, Māori students decided to initiate their own Māori law students association called 'Te Whakahiapo' in response to the need to create a group which would support Māori kaupapa amongst the students. Our group endured the label of 'radicals' or 'separatists'.¹²⁶ Is trying to maintain our cultural heritage as a group and promote our point of view being radical?

In 1991 a group of students wrote a letter to the Dean, expressing their opinion that the Māori content in the course curriculum was insufficient. The group consisted of three Pakeha, one Māori and one Samoan student. This clearly indicated to Māori that we were not the only students at the School who felt that the Māori content needed to be improved dramatically.

Two Māori student representatives expressed on our behalf our concerns about the lack of a bicultural commitment from the School. It should be noted that there were no appropriate policies in place which could deal with our concerns. In front of all the staff, our two representatives were made to justify their positions. Issues and concerns about our cultural safety were raised.

Later, when two of us decided to answer an examination question in Māori, the School's unpreparedness to deal with these issues was highlighted. An inquiry resulted due to the way the School handled the marking of these two papers. The Council of the University called for the inquiry. What resulted was a criticism of the way the University dealt with the whole matter and a recommendation was made that the University implement further policy on the use of Māori language in assessment.¹²⁷ The policy was not completed until 1994, despite the inquiry taking place in 1991.

The policy was not acceptable to Māori because it was a policy which protected the University and did little to promote the use of Māori language in the institution. The

¹²⁶ Constant remarks and comments of this nature were voiced by other non-Maori students regarding our forming Te Whakahiapo.

¹²⁷ *Report of the Committee of Inquiry into the Conduct of the Examination in Public Law at the University of Waikato in 1991 (1993).*

policy was a mechanism to assist the lecturers to mark the exams submitted in Māori. It was the lecturers who needed a translator to translate the exams if they could not read Māori. Despite our two students articulating this flaw in the policy to the University, they were totally ignored. The reply was that the University simply could not see what the problem was.

The pressure Māori students experienced as a result of the School's politics was phenomenal:

The political goings on at the school impacted more on me as a Māori woman I think. I think if I was a pakeha guy I wouldn't have had all the other distractions, political distractions. For me as a Māori woman, maybe a pakeha male student may not had to deal with or think about it. It [Political distractions] can actually drain quite a lot of your emotional energy where you could be pumping it in to your essay writing or studies.

What I didn't expect was to become involved in all the politics of the running of the law school, because it left me feeling a bit confused. I felt like I had been baited to come to the school under false pretences.

For one graduate, in order to cope with the political backlash, she denied her Māori heritage and sought protection by hiding behind her physical appearance as a Pakeha instead.

I spent the first year being quite terrified by the whole experience, but I was determined that it wasn't going to beat me so I stuck with it and because I don't look like a Māori it makes a difference.

What does the action of this graduate say for the safety of Māori coming to law school? If this graduate felt safe enough to learn at law school, surely there was no need to change identities? And what does this situation say for those Māori students who did not look Pakeha? Where was their protection? Why should we have felt as though we had to hide in order to feel safe?

This graduate's denial of being Māori is clearly an example of what Moana Jackson refers to as the destruction of the Māori soul:

Māori began to develop an internalized state of alienation in which they rejected themselves because the meanings which their philosophy gave to their existence were being removed... The alienation and self-negation so engendered ate away the Māori soul. Many began to feel that somehow there was an incompleteness in their humanity which only becoming Pakeha could fulfil.¹²⁸

¹²⁸ Jackson, M "The Treaty and the Word: The Colonisation of Maori Philosophy" in Oddie, G & Perrett, RW (eds) *Justice, Ethics, and New Zealand Society* (1992) 4; in Mikaere A, *The Balanced Destroyed: The Consequences For Maori Women Of The Colonisation Of Tikanga Maori* (1994) 155. The experiences of Mihipeka Edwards are discussed as an excellent example of how self-negation affected this prominent Maori woman. For more information see Edwards, M *Mihipeka: Time of Turmoil* (1992).

This is what the impact of colonisation has been on our self perceptions.¹²⁹ Māori do not always feel safe at law school. The oppressive environment results in questioning our own heritage and culture. Through the institution of the School and its policies, there was no protection for Māori. How could we expect protection when the School was not even prepared for biculturalism?

This situation is also an example of institutional racism. The *1985 Report of the Māori Advisory Unit of the Department of Social Welfare* defined Institutional racism as:

...the perpetuation of policies and practices which advantage Pakehas and disadvantage other racial groups.¹³⁰

Many of our experiences show that we were placed in positions where we were disadvantaged. The policies and practices of the School advantaged the Pakeha students.

One particular graduate had a solution to the problem of racism:

I want lecturers to be put through an anti-racism course and I want them to be aware of their own culture and their own misgivings.

An important issue which is raised in this comment and which has been a major theme throughout this paper is monoculturalism of many staff, which resulted in our oppression.

Political problems between the staff members were also known to all the students. The effect of these on all students, especially Māori, was again very noticeable. The political 'goings-on' between various staff members meant that the delivery of our legal education was disrupted. In the end it took its toll on our performance as students.. One graduate articulates the effects:

Well it was really strange to have so many problems in the law school and a lot of in-fighting. I found it quite disturbing that so much was going on in the law school itself with the staff. You know people leaving left right and centre, lots of problems. I mean it was quite unsettling. In terms of the law school working itself out, you have to stretch and grow and get rid of, but I don't know that it was a happy place to work as far as staff members were concerned and that sort or had a ripple effect because you knew something was happening and you could feel it, but you weren't quite sure what it was. It was quite disturbing to have your lecturers all leaving and you sort of think well something must have gone down here. The ones [staff members] that seem to be leaving are the ones who supported us the most, you know as Māori students, or the ones who you know represented other cultures.

129 Idem.

130 Department of Social Welfare publication, 1985, 8.

This graduate is referring to a number of problems which were experienced by the School staff. This included the resignation of three staff members, including the two black indigenous lecturers.¹³¹ The School was a volatile place for all concerned.

5.4.4 CONTENT OF LEGAL EDUCATION

There was an assumption made by most lecturers that just because we were Māori, we would know about Māori kaupapa. This was not true and often resulted in even more unnecessary pressure.

It would have been good to have more Māori content in our courses and having lecturers that can teach you about Māori, instead of assuming that because you were Māori you know it all already. A lot of us haven't had that in our up-bringing.

Two of our graduates further described the effect it had on them personally.

Basically it kicked a lot of confidence out of me. I was quite a confident person when I went there in terms of I knew my opinions and I knew where I was at and I came out of there [Law School] just feeling quite deflated, questioning my own gut feelings at times in terms of my analysis of situations.

A lot of the actual content of what they were teaching put me under, I don't know whether it was stress, but it made you wonder what was going on. As you got an insight into the working of the law, you realised more so how it had been used as an instrument of oppression

The School did manage to highlight for us where the injustices of our legal history came from. Courses such as Legal Systems, Public Law A, Public Law B and Jurisprudence, while taught from a mainly monocultural perspective, made us realise the way the law was and is still used as an effective tool for those who hold the power over those who do not, Māori.

5.4.5 FEELING ISOLATED

Another predominant theme that emerged from the interviews and questionnaires was the feeling of isolation experienced by the graduates during our time at the School. The types of isolation we felt included, feeling isolated because of one's gender, the physical isolation from ones whānau and ethnic isolation of being Māori in a Pakeha dominated environment.

The isolation we felt as Māori coming to a School which was dominated by Pakeha in numbers and systemic structures, was noted by one of our graduates:

I found it really isolating...I think the pressure of just being in an environment that was really foreign and that was based so much on you know achieving well and sort of being an individual as opposed to a group based person was really hard to live with.

¹³¹ One lecturer went on unpaid leave for two to three years, and later resigned.

The type of learning which was encouraged at the School, as expressed by Professor Wilson earlier, was the competitive individualistic approach. For Māori, however, our approach is more a communal group/supportive approach. Problems arose when we were expected to change our values and beliefs, just because the culture of the School's learning was the complete opposite. Again, this raises questions of the School's commitment to biculturalism.

It was not uncommon for some of us to be the only Māori in some courses. The stress placed on us being isolated from other Māori was articulated by one of our group.

I felt a bit strange because I was the only Māori Woman in there [the course of study]. Anything Māori, everyone turned to me. One thing that really bothered me was that the Māori ...portion of the course was left right to the end and by that time we were told this won't be examined on so people didn't come....I was a bit reluctant to share my experiences with Pakeha.

In this situation, we were made to feel even more vulnerable in a system which did not support our own tikanga. When faced with being the only Māori in the class, that person was made to feel even more marginalised. Again, the issue of cultural safety for Māori must be raised. Where was the protection for those of us who were placed in this position?

Or is this an appropriate way for Māori learning to be conducted, that is, within the Pakeha framework? In many of the courses the Māori 'portion' was taught in such a way as to be perceived as 'that-extra-bit-on-the-side'. Often, if any part of the course was to be placed in the 'not-enough-time-to-teach' or 'the-unexaminable-part-of the course' category, it was the Māori component.

Whiu, a recent graduate of Waikato, has written about similar experiences she encountered as the only Māori in her particular course.¹³² Whiu expresses:

Them talking about me

Hating sitting, listening while we discuss Māori women as though they are some abstract, distance, curious and odd "other". You are talking about me I'm sitting here amongst you. I am real. I don't exist in your books, your heads, your intellects.¹³³

The arrogance of the Pakeha women in her classroom situation is the expression Whiu uses to explain the oppression of Māori throughout the education and social context.

Whiu had this to say of another of her experiences as a Māori law student:

Of course Māori women can't be generalised; of course we have individual and specific characteristics and personalities. Of course we are who we are because we are Māori and you as Pakeha cannot ever know that, just like we can never know

¹³² Whiu, L "A Maori Woman's Experience" Waikato Law Review Vol 2 1994.

¹³³ Idem.

your reality as Pakeha. But we are expected to live, learn, talk, write, walk, think, laugh like you do. We are forced to adopt your ways of doing things. And we have done so often more successfully than you do.

The School's philosophy and reputation for encouraging legal debate on Māori issues was not enough for us. One particular graduate commented about his or her experience in comparison to what they thought of other law schools.

I don't think any law schools are a good environment for Māori students at all. Actually Waikato would probably be the best of the worst really. If you want to be isolated for four years and if you want to be in lectures where nothing is culturally appropriate to what you are used to...

Māori students were also isolated from our whānau, our major source of support. Not only did we rely on our whānau for encouragement and support, they too relied on us for continued support. Despite the pressures of working in a alienating environment, we were still expected to provide support to whānau. However in some situations being unable to help our whānau because of our physical separation from them made us feel helpless. These feelings of helplessness often affected our performances at law school.

My whānau were calling for me to be at home. I felt sort of stuck between two different things. I knew I had to get through this law school because my family wanted me to get through, but at the same time I felt that I was needed at home. We had real problems at home and I felt that I was one of the only ones that could be there [home] to give assistance.

When a student feels isolated and alienated their chances of learning effectively are reduced. Feelings of isolation experienced by Māori students at law school are similar to those of other indigenous peoples, such as the First Nations people of Canada. Monture shares the isolation and alienation she experienced as a student at law school:

In law school we were surrounded by the colonial myth or that the property law system they all supported was built on a great lie which disappeared all of my people. Nobody in that law school was conscious about the fact that they were lying and I was overwhelmed at being expected to quietly participate in the disappearance of my people. This is how I experienced isolation and alienation during my legal education.¹³⁴

Montures echoes the concerns felt by many indigenous peoples about having to study in a discipline which has been responsible for the oppression of their group. One particular graduate had this to say about his or her experience

The law school was one of the worst experiences I have ever had as a Māori person. I think that degree was mainly structured for Pakeha students.

¹³⁴ Monture P,A "Education and Self-Determination: A Pathway For The Future" (1990), 8.

Again, the reference is made to the structure of the degree being perceived as monocultural, for Pakeha rather than Māori.¹³⁵ The reference to the degree being mainly structured ‘for Pakeha students’ illustrates the perception of law school as being a Pakeha dominated institution.

Not all our experiences at the School were negative in nature. We all became equipped with certain skills and knowledge that we were not equipped with prior to coming to law school. The truth of discovering how Māori are dealt with or not dealt with by the legal system affected one graduate's perception of the School.

The Law school affected my perceptions of society really. I was pretty much ignorant of Māori concerns previously and going through all the subjects that we did, you realised that Māori were done in and that affected my way through law school. I wanted to be there for my people.

In some situations we were exposed to and learnt from the effects of colonisation on Māori. Jackson explains the process of colonisation as "a process which denies a people the right to continue to govern and protect themselves in their own land, and it has consequences which mock the dignity of those whom it dispossesses."¹³⁶ As students we learnt about the nature of the law and its impact upon Māori.¹³⁷

5.4.6 A SOUND LEGAL AND PROFESSIONAL QUALIFICATION

Other skills attained by students included being able to analyse facts and situations, think critically, investigate problems and possibilities, persuade others by logical argument, and work with all types of legal material.¹³⁸

I know how to research for books in the library.

I find now that my analysis has deepened, but I don't know if it is necessarily as a result of the law school itself. I think it is more of a result of myself and my own personal belief and having to fight against the law school.

These skills were seen as positive outcomes of going to law School. These skills were tools which we knew would be useful in assisting our whānau in the near future.

¹³⁵ Legal systems course in 1989 covered the Maori perspective in relation to the development of law and the Treaty of Waitangi issues.

¹³⁶ Jackson M, "Justice and Sovereignty: Promoting Constitutional Arrangements: Models or Process, Accommodation or Decolonisation?" (1996) 3.

¹³⁷ Although we were taught about the law and its impact in New Zealand, this was only at a superficial level and very rarely, apart from guest lecturers, was the colonisation process discussed in detail. The law was portrayed as a necessary tool for social order.

¹³⁸ New Zealand Law Society, "Training in the Law" (1993) 1.

5.4.7 HEAVY WORKLOAD

As a group we were sufficiently realistic to expect that we would have to work long hours to achieve our goals and to acquire these new skills. Even more importantly we expected to be challenged intellectually.

I thought the work would be hard and I was afraid I wouldn't have what it takes intellectually. I thought there would be a fair amount of Māori content in the courses and I looked forward to that...Overall I expected not only hard work but lots of it and so I expected to be challenged.

All I expected was them to give me a lot of work and wanting a lot of commitment.

Law may be described as being 'demanding, competitive and requiring a good deal of dedication and commitment'.¹³⁹ All students experienced the pressures of working hard for their degrees. As a group we knew to expect this. The hard work and long hours of study we knew would be rewarded with the much deserved legal qualification.

We believed that the School would prepare us to become legally qualified with the professional standards which are required for the graduate to function effectively as a lawyer. However it was the method and manner in which we attained this qualification which was noted by one particular graduate:

To get legally qualified in a manner that would reconcile the competing interests of Pakeha professional standards and Māori professional standards. ...professional standards to my mind is the same for both Māori and Pakeha, the manner in which they are attained I believe has to be different. We as Māori are different, we have different needs, wants and expectations. I hoped Waikato Law school would; a) respect these differences and b) cater for these differences.

Echoed in the comment is the fact that Māori are different. To put us in an institution which fails to recognise and cater for our differences is sounding warnings to Māori that we are again experiencing further colonial oppression.¹⁴⁰

Cultural differences in the methods of learning were also reinforced by one graduate. The Māori way of learning is different than how other people learn.

We [Māori] can understand, the way we learn is by observing and another way we learn is by relating things to the world, to the real world. The way we see things and a good teaching method,... a useful teach tool when you are talking to Māori is to use analogies and relating things to other things. If you can relate it to something that Māori can relate to it would make more sense for the Māori student. It is the same for law.

Pakeha learning is competitive whereas Māori learning is inclusive and you wait for the slowest person to catch up and you wait for them to

¹³⁹ Idem.

¹⁴⁰ Supra note 7, at 49.

click onto the knowledge before you progress. So that would be the ideal thing for Māori.

Ideally, Māori law students prefer to learn collectively with teaching methods and in environments which nurture Māori kaupapa. Traditionally Māori learning involved observing, interacting and sharing the knowledge and skills of a wide range of people who were members of their community.¹⁴¹ A conscious effort was made to maintain a balance between the individual and group. A person was encouraged to be a strong individual but also to be able to interact with other people.

There is an unspoken expectation that all Māori will learn together and achieve together as a group. We thrive in environments which does not isolate the individual, but encourages a communal way of learning. This is because Māori are a communal race and we will seek other Māori for support.¹⁴² We use a holistic learning approaches which sees things inter-relate to each other and not as separate concepts.

Unfortunately, the majority of courses taught at the School still reflect the traditional dominant English legal culture, despite the inclusion of a Māori component in some courses. The emphasis is on individual learning and competitive achievements.

5.5 MĀORI SUPPORT SYSTEMS

In 1990 a strong Māori support system, was set up called Te Whakahiapo (the Māori Law Students Association), by the students. Te Whakahiapo was the name chosen because we believed it encompassed the concepts of:

Whakawhanaungatanga - making connections with each other;

Manaakitanga - supporting each other; and

Whakawhiriwhakaaro- interacting with each other, exchanging views and thoughts.

Māori students who came to the School were encouraged to join Te Whakahiapo, which was set up to help support all the Māori law students at Waikato. As the first Māori graduates it was important that we all got through our legal training as a group. Peer support groups are an important factor in Māori students' success in the study of law. This peer support system was crucial to us as Māori because of the collective responsibility we had for each other. As a group it was expected that each and every one of us would get through our legal training. We all felt a responsibility to each person in our group to ensure that we would all qualify.

We were all quite close even though I didn't really know people really, as individuals. As a group I knew that the support was there and I was quite shy to ask for anything.

¹⁴¹ Pere R, Te Wheke: "Whaia te Maramatanga me te Aroha" in *Women and Education in Aotearoa* (1988) 12.

¹⁴² Mutu M, "How Maori See the University: Another Personal View" in *Developing Departmental Structures To Better Reflect The Needs Of Maori Students - A Report* (1990) 14.

It actually gets you to go to class. We were quite lucky when we went through because our group really stuck together all the way through. Just talking to students that are still here, there is starting to be a separation between the years to begin with and then there are groups within groups and that's sad.

The bond we shared as Māori was unique. We felt accountable to each other, to assist each other with our studies. After all we came from a background of support, nurturing and common goals.

The good thing about it [Māori Support Group] it was a group of students who were trying to make sure that everyone else was onto it. We were going to do it [pass the courses] and do it together. That's a perception for Māori that Pakeha don't have. You have got to have a bunch of people who can put it all together comfortably and know what each other is saying and the way that you are talking, what you are meaning and everyone is different.

Although our support group was mainly at the School, we were definitely part of the larger University Māori support. Another graduate found that it was important that our Māori support group was perceived as part of a larger network, available to all Māori students on Campus.

Being strong about being Māori, being who I was is a real big support. It was a really big help and also other Māori students around campus were a big help and my family too.

By networking and belonging to a group, we were easily identify with to other prospective law students, Māori groups on campus and ultimately to the wider community.

I think that it is important to show a good face to those that come through. Also as a group for outside people. In Hamilton especially there should be a higher profile of the Māori law society.

There was no doubt that the successful pass rate of the first Māori law graduates was due largely to our unique support system.

This support system was further encouraged at a national level. Māori students were given the opportunity to attend the Te Hunga Roia (National Māori Law Association hui, held bi-yearly. By maintaining the students' link with Te Hunga Roia, our awareness of Māori issues was fostered and networking systems with other Māori law students and practitioners were maintained.

Since the School's inception, Waikato Māori law students and staff have attended the national hui in Porirua, Auckland and Wellington. We have been the largest contingent of students at the latter two hui, despite being the youngest law school in operation. In 1995, the determination of the Waikato Māori law students to be kept informed of the

wider issues affecting the Māori community saw the students, with the support of the School,¹⁴³ arrange their own Treaty Issues Hui in Hamilton.¹⁴⁴

5.6 SUMMARY

The expectations we had of the School were few in number but very important to us in nature. The most important expectation we had was that the School would be bicultural in philosophy and in structure. This factor alone attracted the majority of us to Waikato, because we truly believed that our Māori perspective would be reflected in this legal institution. Other expectations included obtaining a sound legal qualification and being exposed to a heavy workload.

From the discussion of our experiences at the School it was obvious that not all our expectations were met. On the one hand, the main expectation of the School being bicultural was not fulfilled. Although the School originally had stated intention of challenging the traditional legal education by trying to deliver a bicultural one, I believe that the School was idealistic in thinking that it could deliver this to its students without more resources, Māori staff and a truthful reassessment of what biculturalism means in an institution which is dominated by Pakeha thought processes and structures—in other words, a monocultural system.

However, our expectations that the School would have strong Māori kaupapa in its course content and a strong presence of Māori lecturers were not unrealistic. Our assumption was that Māori kaupapa would be taught by those who knew about Māoritanga: by Māori. What we did not expect was that the small amount of Māori content which existed in some of the courses would be taught by lecturers (the majority of who were from overseas) who were not qualified or appropriate to teach Māori kaupapa. The fact that the School still carried on its programme with inappropriate staff, who thought it acceptable to teach Māori kaupapa to Māori students highlights the arrogance of the dominant monocultural group oppressing Māori.

Our experiences have shown that we were used by some lecturers to compensate for their lack of knowledge and information about Māori. This was totally unacceptable from our point of view and could have been avoided if the School had acquired more Māori staff to teach the Māori kaupapa. To expect the only two Māori staff to be specialists in all areas of Māori and the law is unrealistic and totally discriminatory.

¹⁴³ The present Dean Margaret Bedggood had shown strong support for the students' hui. Financial assistance was also provided from the School.

¹⁴⁴ The hui was organised, advertised, fund-raised by the students own initiatives. Prominent Maori lawyers who attended the hui included, Tu Wylie, Annette Sykes, Caren Whicliffe, Moana Jackson, Shane Solomon, Ani Mikaere, Gina Rudland, Philipa Mac Donald, Marama Henare, Angela Rogers and Judge Rota. Contributions were made by Joe Williams, Mike Smith and the School.

The expectation of some that the School would be yet another Pakeha-male dominated institution was both valid, considering our history of colonisation as Māori, and, in the event, that expectation was borne out.

A heavy workload was a realistic expectation. Like all law students we experienced four years of study reflecting a constant heavy workload. We accepted this as a natural part of our training. However, we did not expect the extra burden of having to teach our teachers about Māori kaupapa.

The acquisition of a sound legal qualification was another realistic expectation, one which was met by us all.

Credit must be given to the School for attempting to challenge the traditional legal education system, but the cost of doing so was high for its first Māori students.

PART VI: EMPLOYMENT—WHERE DID WE GO?

6.1 BACKGROUND

In 1994 the Waikato School of Law celebrated its first year of graduation ceremonies. The number of law students who completed the degree totalled 136. The number of Māori students who completed the degree was 22.¹⁴⁵

On completion of our legal training we found work in a number of different areas: the private law sector; the public sector; working for our whānau, iwi or hapū; consultancy work; and finally, unpaid work experience. A small number of us were unemployed when we left law school. Fortunately, our unemployment experiences were temporary. Those of us belonging to this group either found employment, did postgraduate work or helped with community work. Others of us decided to extend our learning, for example, by extending our knowledge of te reo and tikanga Māori.

6.2 MĀORI EMPLOYMENT OPPORTUNITIES

One common expectation we had (and which we continue to have) was that we would utilise our legal skills to assist and empower our whānau, hapū and iwi. Our skills would be used in a range of areas, from assisting in daily whānau queries requiring legal advice to the wider issues of Māori land and the Treaty of Waitangi rights.

My focus was on Māori land issues, particularly those involving my own whānau.

I would like to see myself in a position where I can help Māori in terms of their health, rights and health law basically. Now there is a lot of hospitals and doctors you know with negligence and medical misadventure and things like this and Māori need to be aware of their rights and entitlements and their accessibility to such services.

One major reason why we felt compelled to work in areas utilising our legal skills for the benefit of whānau was attributed to our experiences at the School. When we realised that the legal system was not impartial and neutral, many of us reassessed whether we wanted to enter the legal profession. The knowledge we gained from our legal training about the legal system and how it enabled the dominant culture to maintain its power over Māori, made us reassess our previous desire to enter the legal profession. One particular graduate articulated this dilemma.

About half way through my five years [training]...I began hoping or wondering that I'd get a nice job. I almost thought that I'd have job offers flooding my mail box. Then towards the end of my degree, I felt disillusioned about the legal profession and what it offered. I didn't

¹⁴⁵ see Appendix 2.

have the same excitement about my future in this profession that I once had.

As a consequence of our disillusionment with the legal system and the profession, we experienced immense feelings of anxiety concerning our whānau expectations that we would become lawyers.

I began to worry about how I would communicate my feelings to my family who had shown me support and expected great things from me.

Whānau expectations ultimately saw us work in a variety of employment areas which relate to the empowerment of Māori, for example, working for Iwi, Runanga or Trust Boards.¹⁴⁶ We worked in jobs ranging from assisting in policy work to doing research for land claims. Some graduates were paid, while others were unpaid but worked to gain work experience.

The reasons why I went to law school in the first place was to go home and do something worthwhile and although being a practitioner could be helpful in one sense educating Māori about seem to me at the moment to be more important and that's something I want to pursue....

I got offered a job at the Māori Trust Office for six months and it allowed me to work on a block of land that my [family member] has got interests in. I ended up being made a trustee on the block. I actually think that was my purpose for working there.

However it should be noted that for those of us who worked in this area, the jobs were only short-term. Usually this was because of the nature of the jobs involved, such as contract work and research. In some cases we gained whatever work experience we could and then used the skills acquired and the contacts we had made from these jobs to move onto other employment opportunities.

I did a contract job for the [name] Regional Health Authority working on policy advice in relation to Māori health. That job took two months. Then I worked for a Trust Board doing policy work evaluating the Crowns consultation processes with Iwi Māori. That job was completed in three months and from there I went straight into my professionals course.

Another benefit of this type of employment was that it allowed us to be contracted for short periods of time. And in the situation of the previous graduate's comment, it was ideal while s/he waited for the three month professionals course to start.¹⁴⁷

¹⁴⁶ I have excluded from this category of employment Maori owned law firms which is discussed in 6.3 Private Law firms.

¹⁴⁷ After completing the LLB qualification graduates may seek admission to the practice of law by completing a 13 week professional legal studies programme that has been approved by the Council of Legal Education. Teachers of this course are contracted by the Institute of Professional Legal Studies, who is accountable to the Council of Legal Education and the New Zealand Law Society.

6.3 PRIVATE LAW FIRMS

As discussed in Part IV there has been major concern about the inadequate numbers of Māori practising in private law. Some of us wanted to increase the visibility of practising Māori lawyers. Some of the women sought employment in private practice. One particular graduate expressed her desire to practise.

A lot of my wanting to come through law school is to become visible as a practising lawyer and a Māori woman, you know because you just don't see them. I don't know where they are, but they are not in the Courts and they are not where I can see them anyway.

This graduate's comment reflects the status of women currently in private practice. A 1993 survey on women lawyers in New Zealand found that at the time women made up 22% of the 6070 lawyers practising.¹⁴⁸

Māori women lawyers are particularly scarce in private practice. According to a 1989 report entitled *Women in the Legal Profession*¹⁴⁹ three specific problems were faced by Māori women in the law profession : financial restraints prohibiting Māori women from gaining a law degree; the trend of Māori women seeking employment in public service law rather than private sector law firms is because of the discrimination in private firms. It would appear that Māori women see that the public sector is the best area to provide a service to other Māori.

The third problem Māori women faced was the legal system's monocultural values. Māori women have become disillusioned and discouraged with the legal system, resulting in few working in this area.¹⁵⁰ The culture of a law firm is foreign and alienating for many Māori women. The environment is dominated by Pakeha men. Of those women who do decide to work in private practice, many are expected to work in areas like family law, areas stereotypically labelled as "female areas" and therefore unduly limiting.¹⁵¹ As confirmed in the report, the pressures placed on women in these areas resulted in a tendency to leave private practice for employment areas which are conducive to supporting their needs.

Working in private practice is an employment option for many law students. However, for a small number of Māori graduates the desire to work in a law firm was one option but not the only one. The need to be skilled in many areas of the law was identified by one particular graduate, as a reason for going into private practice.

¹⁴⁸ Gatfield, G and Gray, A "Women lawyers in New Zealand: A survey of the legal profession." in *Law Talk* 387, February 22 (1993), 11.

¹⁴⁹ Auckland District Law Society, *Women in the Legal Profession: The Report of the Second Working Party on Women in the Legal Profession* (1989).

¹⁵⁰ *Ibid*, 65.

¹⁵¹ *Idem*.

I am focusing on getting into practice, getting into a law firm. I would prefer a general practice where I can get a chance to dabble in all sorts of areas, rather than thrown into one particular area.

The realisation exists for some that in order to gain any future employment we must compromise our own desire to work in a specific area of law, for the needs of the law firm.

I think my priority at the moment is to get two years experience. I actually don't care what I am doing because I think that you have to compromise somewhere and if I have to get two years by doing conveyancing then I will even though its not my area of interest. Once you can say "Yes I have got two years experience" then that's your base.

In private practice, a graduate is usually positioned at the 'bottom-of-the-ladder' of legal employment, until such a time (usually two years or more) where experience has been gained. There is a realistic expectation that most will be usually required to do the repetitive mundane legal work as a staff solicitor.

It's like any job or profession. You come out and you have to do a certain amount of donkey work before you actually get to practise the type of law you want to do. If you are lucky you go straight into what you want, but if you are not, you have to expect to just have to do a certain amount of stuff that you don't particularly want to do. I think I would like to do litigation.

Following this period the staff solicitor reaches a stage where s/he is no longer considered to be bottom of the law firm's hierarchy ladder. After a two year period, having gained enough experience, the staff solicitor is able to start having more say in their own career path. One graduate accepted this position in order to achieve his/her goals.

Every single job you ever see it shows a solicitor needs at least two years experience and I need that and so I am prepared to do the hard graft. After two years I may get out or maybe my salary might be okay after two years, I might enjoy what I am doing, but I am sure I will find out by then anyway what I want to do.

In private law there is an apprenticeship time which each staff solicitor has to go through.

I think the problem is that everyone has to go through that time of apprenticeship where they first have to learn the skills and then how to walk before they run. I think this is what I am doing now. I don't necessarily enjoy it, but that's part and parcel of it I guess. But I will be very unhappy if at the end of the day, say after two years, I am still here. I will be very displeased with myself because its not what I set out to do.

Staff solicitors start on such a low salary just because you have got no practical experience and all the partners know that so it is a matter of just you learning as you go.

Another graduate, aware of the demanding culture of a firm, did not send in a Curriculum Vitae (CV) to the partners and still secured a staff solicitor's position. The graduate was known to the partners and is affiliated to the same iwi as them.

I never even wrote a c.v. when I came out of law school. I never applied for any of the jobs in the law firms, because I knew I couldn't stand law school. I definitely couldn't stand being in a Pakeha law firm at all.

An important element which faces graduates in our choice to enter private law is the commitment a law firm has towards its Māori clients and Māori issues.

Working for our own iwi, giving our commitment and accountability for to our own people is important. Unfortunately the reality of too few Māori run private law firms existing in tribal areas restricts the opportunities to graduates.

The choice of the particular private law firm and its commitment to Māori clients and Māori issues influenced the decision of this graduate to work as a staff solicitor. The support given by the partners in the law firm strongly influence that graduates' perception.

Although many of us had envisaged working in a private law firm, in reality we knew that the culture of the firms and their intolerance of Māori lawyers helping their own people were incompatible factors. It is my impression that this rejection goes even deeper. As Māori graduates we are perceived by others as unable to attract enough business to the law firms and only useful for doing 'Māori work'. Accusations of being incapable of objectivity regarding Māori work and the law firm's priorities, are often experienced by Māori lawyers.¹⁵²

The number of law firms owned by Māori are scarce.¹⁵³ One graduate was able to obtain what many other graduates would consider as the 'ideal job' in a Māori owned law firm. The support systems were in place, and there was no problem of differing cultural perspective's. Even more importantly, the employers encouraged one graduate to continue learning tikanga Māori. The recognition of Māori tikanga and te reo is an essential pre-requisite for a Māori lawyer whose responsibility it is to provide a culturally appropriate legal service to Māori clients.

I don't think I'd do 9 out of 10 of what other graduates would be doing in a Law Firm. Firstly we are a smaller law firm and we are based in a tribal area and its my own tribal area. The firm has a lot to do with Māori land law and Māori incorporation's. So I get a totally different perspective on the law rather than I think someone in say .. Auckland law firm would get. Originally I didn't want to be in a law firm because

¹⁵² Supra note 1. A comment was made by a particular participant regarding the disadvantages of being a Maori lawyer and the way the legal profession and the judiciary perceive them.

¹⁵³ To name the some of the few Rangitauira and Lake (Rotorua); Dickson M (Tauranga); Henare D (Auckland) and Chadwick and Bidois (Rotorua). Tunnicliffe Williams Walters (Auckland) has two Maori partners but is not solely owned by Maori.

I felt I would have to compromise. [Being Māori, having a strong political viewpoint, developing and learning about Māoritanga]

One of the graduates had gained a summer clerk job during their training. From this experience the graduate found that a private law job was the work which the graduate wanted to do once qualifying. Later this talented graduate secured employment with one of the country's largest law firms. This same graduate believes that law firms look at the abilities of the graduate to practise Māori law compared with other non-Māori graduates.

As a young Māori lawyer practising I think any sort of firm looks at you because of your ability as a Māori lawyer to practise Māori law, to practise in Māori legal fields.

I expected to be in an environment where, I would be working with people that I wanted to work with, that's Māori lawyers, for people that I wanted to work for which is Māori clients, doing things that I wanted to do which is Māori issues and hopefully encompassing, if I was lucky, my joy of litigation which is court work and so I was hoping that, the sort of environment I would get into would focus on Māori issues with an ability to work in the courts.

For one graduate, being employed as staff solicitor was due to good luck and timing combined with the law firm's desire to employ a replacement staff solicitor, rather than the conscious choice of wanting to work in a legal practice.

I was unemployed and had no idea what I was wanting to do. Then after about four months of mucking around I decided I would try and get a job. I was lucky, I was at the right place at the right time. About a week after I put out my CV, one of the staff solicitors from here [the law firm] had just left.

Most of the graduates had clear expectations of what employment areas we wanted to pursue once we completed our legal training. The most commonly expressed expectation was to gain employment in work areas which would ultimately benefit the Māori community. This illustrated our inherent sense of responsibility and the accountability we have as Māori for our people.

Three graduates gained employment with Private law firms in 1994. The locations of these firms are Auckland, Hamilton and Rotorua. It should be noted that this number does not reflect our abilities to do the work required of a staff solicitor in a private law firm.

In my opinion, however, this figure does highlight some issues about the incompatibility of Māori graduates with the culture of law firms. Law firms have a culture of their own and are mainly owned by middle-class Pakeha lawyers. The commitment of law firms is firstly to function as a profitable business and secondly to their clients. Working in a private law firm can be a very daunting experience for any graduate. The pressures of working for the assigned partner and bringing in more client business, whilst trying to learn the skills of a staff solicitor, usually inflicts immense pressures on the newly qualified law graduate.

6.4 THE PUBLIC SECTOR

In 1993 six graduates took up employment in the public sector. This type of employment included workplaces such as the Ministry of Health, Ministry of Commerce, Ministry of Consumer Affairs, Ministry of Environment, Ministry of Justice and Te Puni Kokiri, to name a few.

Studies in the past have shown that Māori women tend to go into law related jobs in the public sector rather than to private sector law firms.¹⁵⁴ Reasons given for this trend includes the discrimination in the private sector law firms and the significance of the term 'service' to Māori women. The conflict felt by Māori often results in their becoming disheartened and discouraged with the legal system, soon after graduating.¹⁵⁵

There are specific reasons why some of us chose employment in the public sector. First, the public sector places less stress on those of us coming straight from law school with very little or no employment experience. In some ways, the public sector provided an environment where we could ease into the realities of being an employee.

I am actively looking for a job at the moment. Probably in the public sector. Eventually I want to go back and work for the family, but I think I need to cut my teeth in the public sector.

For one graduate the public sector work meant less stress and more free personal time.

I just want a nice comfortable job and I don't want to sell my whole life to a law firm so in a Government department, I get to go home at five and I have the rest of the time as my own. Its a lifestyle choice and I don't want big pressure.

Flexibility in employment is an important element for some of us when making a choice about our future employment. For many of us, the work environment needs to be flexible enough to accommodate the needs of a young family, to provide adequate financial security and to cater for the graduate's own choice of work. Ideal as this may sound, we believed that this was the type of employment we wanted to aim for.

I hope to have a child, I hope to be still employed, I'd like to be in a law firm. Hopefully it will be in a situation where it [work] is sort of flexible so I could spend enough time with my child and my partner. I hope to be on my way to having money to save up for my house and to pay off my student loan.

For another graduate flexibility meant the power to select the type of work which that he or she wanted to do.

I want to do research to a certain extent because you are away on your own doing a lot of stuff. Finding out little things and being able to trust

154 Supra note 149, 65.

155 Idem.

what you have found, and trust it to the point if you are arguing for it in your paper.

Flexibility in employment is determined by the personal needs of the graduate. However from this project it would appear we were looking carefully at the benefits we would gain personally rather than solely from the type of employment available at the time.

The level of extra support and training was another factor identified by one graduate as a benefit of working in the public sector.

They [Ministry] send me on heaps of courses. The pay's not that good, but the training is excellent. In 1995, I have got to do all these management courses and public speaking and advanced computers.

The pressures of economic survival influenced some graduates' immediate choices to gain public sector employment. We took up various jobs to ease the pressure of paying student loans accumulated over the years of legal training.

When I am worrying about where the money is coming from it is hard to concentrate on anything.

I took up various contract jobs because I needed to get money to pay back my student loan. Secondly, I have other financial commitments for example, paying a mortgage and child care which need to be continued.

Along with monetary pressures, the choice of employment involved personal reasons as well.

I got offered a job at the Māori Trust Office and I needed the money. I worked at the Māori Trust Office for six months and that was meant to be because it allowed me to work on a block of land that my [family member] has got interest in.

However one graduate did discuss one of the disadvantages of working in the public sector.

It takes so long to progress there. To get into senior positions it takes about 10-15 years and someone has to die first, so they [particular Ministry] have a real retention problem. People probably stay about two years and then go.

In 1993, public sector employment was largely favoured by the Māori graduates. The supportive working environment, freedom from the private sector stresses, personal benefits and the guarantee of financial security attracted us to choose this area of work.

6.5 OTHER OPTIONS AFTER GRADUATING:

6.5.1 FURTHER POST GRADUATE STUDIES

An alternative option following our legal training was to do post-graduate studies. In 1993 two of us went on to post-graduate work. For one graduate, the combination of study with work suited their personal lifestyle.

I said I wanted to do it anyway [Masters study] and I want to do it for home. I want to take it to the [name of the graduate's trust board]. I will be doing full time study and part time work.

Interestingly, other graduates were already considering doing post graduate studies in the near future.

I am going to do my Masters in 1996. My work is going to pay for that.

I am going to be doing my Masters. If I get an A- I will carry on with my PhD.

Next year [1995] I will be doing my Masters. I actually didn't intend to do my Masters for another two years, but I got offered that teaching assistant's position, I decided I would.

No particular reason was given as to why we wanted to do post graduate studies. As mentioned above we saw our employment as reflecting a responsibility to our extended whānau. Even in post-graduate studies the commitment is still as strong. Davis explains why this may have occurred for other Māori students:

Māori students have completed post-graduate studies in order that they write the history of their own hapū, achieving a collective end whilst also significantly advancing ones personal interest.¹⁵⁶

So even in post-graduate work, for many Māori graduates the emphasis is on benefiting the collective.

6.5.2 VOLUNTARY WORK

Another avenue of work taken up by the graduates has been voluntary unpaid work. In these situations we were unable to secure a paid position and so we looked for work experience which involved the law in a wider context. Such experience ranged from working in a private law firm, to community law centres. By networking with others, graduates often heard of new positions becoming available.

When I finished law school I got into the first intake for profs and after I got admitted to the Bar I did about four to six weeks voluntary community work at Mangere Law Centre and Waipareira Trust. It was through Mangere Law centre that the lawyer said she had heard of this

¹⁵⁶ Supra note 1, at 4.

job coming up and suggested I go for it because she went for it, but then she pulled out, so I got through their interviews and here I am.

Another graduate, whilst waiting to gain full-time employment, decided to work directly with other Māori on an issue which was important to all Māori, the process of decolonisation.

At present I am learning about how to educate Māori on rangatiratanga and decolonisation. I intend to continue in this field after finishing my LL.M. I don't think I could work as a 'lawyer' per se, I enjoy educating Māori, and I feel I would be more effective there than in a law firm.

Another of our graduates was actively involved in the decolonisation process of Māori by assisting in setting up an alternative justice system.

What we are looking at doing currently is actually starting to set up an alternative system here.[reference to home area] We are looking at doing a wānanga trip whereby we do treaty education and basically taking some of the issues to the people.

The wānanga referred to by the graduate was organised by Moana Jackson, Henry Flavell, Eva Rickard and Annette Sykes. The purpose of those hui were to educate Māori people in the different rohe about issues affecting Māori, for example, the Fiscal Envelope policy released by the Government in 1992.¹⁵⁷

6.5.3 UNEMPLOYMENT

Our graduates were not immune from unemployment. As mentioned in Part III, the unemployment of law graduates was a major concern of those opposing the law school's establishment. There was a strong expectation by most of us that once we had qualified, we would automatically secure future employment. Of course, this did not happen straight away for some of us. As a result we experienced negative feelings were experienced.

So far I have applied for jobs in Government departments or other clerical positions. My law degree did not even get me an interview as a clerk at the courthouse so I don't place too much faith in it getting me anywhere. I am feeling negative at the moment and although I'd like to go into practice, I think my best chance will be with a Government department.

Being bonded to a Government department during ones legal training did not guarantee a job.

Before I started law school I got a scholarship with the Ministry of and part of that scholarship was that I was guaranteed work, but I was bonded to them to work for a few years after completing my degree. I enquired about whether or not this job was still available and they said "We can't exactly guarantee you anything."

¹⁵⁷ "Kia Hiwa Ra", March and October 1995 a discusses the National Hui hosted by Sir Hepi Te Heu Heu at Herangi Mare in Turangi in January and Sept.

The effects of being turned down regularly for interviews, having recently qualified in law, was devastating to those of us who had expected automatic employment opportunities

I've been sending CV's out, they're a bit like boomerangs at the moment, they keep coming back.

On the other hand, for some experiencing unemployment straight after legal training was a positive opportunity. After five years of study some of us found we needed to have a clean break from law. This meant either having a holiday or doing some work completely unrelated to studying law.

I really enjoyed just getting back being around people that were different like not so academically minded so that those sort of hangups did not really worry them that much. They are more practical, talking about real life things. It was a good experience so it reopened my eyes back to the reality of the thing. It [practical everyday life experienced by others] sort of got lost in three years of doing law papers. You start forgetting who you actually are doing the papers for.

This comment illustrates the pressure and trauma we experienced in our legal training and our need to get back in touch with what was important to us.

Many of us found that because of the types of experiences we had as students in the School we needed to cleanse ourselves of all the perceived monocultural learning experiences. We felt we needed to spend more time immersed in our culture, by continuing to learn tikanga and te reo.

I wanted to have a break. I got so sick of doing law stuff that I wanted to do something totally different. I went back on the dole again. The first thing I did after I finished was go on the dole and do a one month Māori immersion course up at the Polytechnic.

I didn't have a job to go to so I had a summer holiday, bummed around for a while and then decided to come back to varsity and finish off some Māori papers that I had neglected. I felt it was really important for me to get my Māori in shape because I sort of came out of law school feeling like something was missing.

At the moment I am doing nothing, just taking the rest of the year off.

The alienating effect of our legal training appeared to be the main theme coming through these comments. That 'something missing' referred to by one graduate was our right to be recognised as Māori in a structure which did not accommodate our needs.

6.6 UPDATE OF GRADUATES EMPLOYMENT STATUS

It was 1994 when the first data about our employment status was collected. Now in 1996, the Māori law graduates' employment status has undergone a few significant changes.

First, the number of us employed in private law firms has slightly increased from three to four. This low number indicates that we are still not keen to work in private practice. I believe that the perceptions we had about the foreign and alienating culture of law firms to Māori are still upheld today.

Second, the number of graduates who chose to work in the public sector has decreased slightly from seven in 1994 to five in 1996. Again, the movement is marginal. One graduate has shifted from the public sector to private practice. This particular person had moved from a mainstream public service role into a private practice which allows him to work on Māori issues.

In the third area, namely post graduate studies, there has been a significant change in the number of us wanting to further our studies. The number of Māori graduates embarking on post-graduate studies has increased from one person to seven. The post graduate courses currently being studied are located at Auckland, Waikato and Whakatane.¹⁵⁸ Some reasons which may have attributed to this significant increase is the desire of some of us to do more specialised research on Māori related legal issues. Another reason may be the realisation that a post-graduate degree enables one to obtain better employment opportunities. However, for the majority of us, post-graduate studies appears to be a natural progression.

The number of unemployed Māori graduates is nil. In this category I have purposely excluded two of our graduates who I believe are not strictly unemployed. One graduate is a new young mother and the other is involved full-time with community voluntary work. Both graduates are working, but not in paid employment.

Another significant change is the decrease in the numbers of our graduates who worked in Māori employment in 1994. Now in 1996, there are no Māori graduates working solely for other Māori. Of the two who were working in this area, both are now employed in public sector work, but still in areas of benefit to Māori.

An interesting development has emerged from two of our post-graduate students who are due to finish their post-graduate studies at the end of 1996. They have accepted positions as medical students at the Auckland Medical School. The reasons given for deciding to study medicine have been partly due to the disillusionment with the legal system and partly because of their desire to work in the medical area.

¹⁵⁸ The post graduate course offered in Whakatane at Te Whare Wananga O Awanuiarangi is a Masters in Indigenous Studies.

6.7 SUMMARY

The majority of graduates were successful in gaining some form of employment when we qualified. Many of us wanted employment in jobs which were perceived as having some benefit to Māori.

In 1994, the majority of graduates went to work in the public sector. The main factor influencing this decision was that the public sector appeared to be less stressful on newly qualified graduates. The other factor supporting our choice, was that this type of work appeared to provide a more supportive environment, for example, offering further training opportunities and the ability to leave our work responsibilities at the end of the day.

Only a small number of graduates went to law firms to practise as staff solicitors. The major factor influencing others choices not to practise in private law was the 'culture' of the law firm, which was perceived to be monocultural in nature. One of our graduates managed to secure employment in one of the few Māori private law firms. The supportive environment encompassing Māori kaupapa was a major factor in that graduate's choice.

A small number of graduates experienced temporary unemployment, the effects of which were both negative and positive. Graduates experienced similar feelings, if not the same, as those of other unemployed people, for example, depression and anxiety. Our graduates needed to secure employment for economic reasons. This influenced some to choose employment areas that they did not necessarily want to enter into at the time.

What became evident from our comments was that some of our earlier expectations had changed as a consequence of the increase in knowledge about the law and our experiences as students during our legal training. Some reasons given for the change in our employment expectations were: the increased knowledge about the legal system and the effects of colonisation on Māori; the uncompromising expectations placed on those entering a traditionally English legal profession which was foreign to Māori beliefs and traditions; and finally, the disillusionment we felt about working in a legal system which we believed was not benefiting Māori.

Our graduates had clear employment expectations when they first began studying at the School. Upon graduating our graduates were very successful in gaining part-time and full time employment. A small number were involved in unpaid work and gained experience which, according to the 1996 update, helped the numbers of unemployed graduates to decrease to nil.

Between 1994 and 1996, there has been marginal movement between the public and private sectors. However the most significant change is the increase in post-graduate numbers.

CONCLUSION

Māori law graduates are Māori first and foremost, and lawyers second. As Māori, we have specific obligations to our whānau, hapū and iwi. Success as a lawyer is measured by our own standards and not by those defined by Pakeha. The ability to use our legal skills and knowledge to advance our people is our measure of success, not whether we are a partner in a law firm or a high ranking government official or even a member of the judiciary.

Throughout our continuous journey through the School, our main purpose was to gain skills to benefit Māori. We are accountable and responsible to other Māori. As Annie Mikaere explains "the principle of whanaungatanga or kinship permeates every aspect of Māori existence".¹⁵⁹ We exist, not as individuals, but as a unique group which "embraces the interconnectedness of all living things through whakapapa".

As the first Māori graduates of Waikato Law School we expected our legal education to reflect the validity of our status as tangata whenua. What we experienced instead was the continuity of oppression stemming from this country's colonial history. As articulated by Moana Jackson:¹⁶⁰

colonisation seeks its material success in the exercise of a power that dispossesses an indigenous people of their land and economic resources, it finds its philosophical justification in the application of the law that dismisses and demeans their norms and institutions".

Our experiences at the School did largely affect our choices of employment. The majority of us chose not to go into private practices considered by us to be a mainstream legal employment area. Instead, we chose to fulfil our obligations to our people and to work in areas which we believed would benefit us as tangata whenua in the future. The need to extend the ever increasing Māori knowledge resulted in many of us embarking on post graduate studies.

When the question is raised why there are not many Māori lawyers in the legal profession, the answer is obvious. The culture of legal education and the profession is based upon the dominance of colonial power of Pakeha over Māori. The myth-making processes of 'one law for all' and the 'law is neutral and impartial' continue to uphold these false perceptions. It is the common law which has facilitated and legitimated this colonial power.

The School is based on Pakeha traditional law, the very realm which it was set up to change. The structure of the School and its course content reflect the continued dominance of the same colonial power. To incorporate Māori content in some of the

¹⁵⁹ *Supra* note 128, at 5.

¹⁶⁰ *Supra* note 94.

courses and to change the number of Māori staff at the School, according to Davis, is just making the School, more "Māori user-friendly".¹⁶¹ What is needed is a serious reassessment of the Schools philosophy and a self evaluation of whether it is achieving its goals.

The whole issue of biculturalism is still being developed and clearly the School has not yet attained the ideal. And even if a bicultural jurisprudence was attained, whose purpose is biculturalism serving? It would appear from our experiences as Māori students that biculturalism is not serving us but that through it, the School is retaining the "power to define and control" within the dominance of those in power: Pakeha.

The impact of our status upon the wider community is clearly evident. The numbers of Māori lawyers in private practice are very low. For Māori women the numbers are even less because of the dual oppression of the law and discrimination of women in general. There is a likelihood that our legal training has affected many graduates' conscious choice not to practise law. Clearly those who are responsible for legal education need to reassesses the delivery of legal education. Our comments and experiences provide guidelines to those who have the power to change the present situation.

It is the responsibility of New Zealand law schools to ensure that the truth of colonisation be uncovered and exposed in the daily teaching of all law students, especially Māori. Bicultural jurisprudence is not encouraged Acknowledging the political nature of law, and the cultural biases, and an honest evaluation of the imposition of this 'alien rule of law' is required. Moana Jackson articulates ".when Māori legal processes are accepted as valid, and when Māori law and sovereignty are seen as the necessary interwoven threads of rangatiratanga" only then will teaching law provide the true knowledge to Māori.¹⁶²

I end this paper with words of advice from our group to other future and present Māori lawyers:

Other Māori students have to know what the institution is like, so that they don't become seduced by the system at the end of the day. I think we are all in danger of becoming seduced and that it doesn't help our people at all because what we actually become are individuals accountable only to ourselves and not to our people.

There is a lot of stuff that you don't learn at law school as a Māori law student, that you need to learn on your own before you can be a productive lawyer to your clients. I think you truly have to be able to stand and to know who you are through your Māoritanga.

The challenge to change the status quo in legal education is not only for those persons at these institutions. Māori law students, graduates and the wider Māori community need to be equipped with the knowledge of how colonisation has and does impact on

161 Supra note 1, at 17.

162 Supra note 94.

our daily lives. We need to be aware of the oppressive values which have been imposed upon us to suppress our tino rangatiratanga. We, as Māori, need to present a united front against the oppression we have all experienced. As Māori lawyers, our responsibilities are to continue to educate others and to support our own people in their struggle against colonisation.

APPENDIX 1: QUESTIONNAIRE

20th January 1994

Kia Ora Koutou Te Whānau o Te Whakahiapo.

Kia Ora Everybody.

We are currently undertaking a qualitative Research Project which concentrates on the Waikato Māori law graduates. The project involves a series of stages which requires your valued input and co-operation.

Stage I involves Completing a Questionnaire.

Stage II involves Setting up a Database for contacting our members.

Stage III involves Interviewing Students.

Stage IV involves Compiling and Completing Information collected with a copy sent to each person and publication of results.

Depending on future funding, we will conduct a follow-up survey within the next two years.

We are at Stage I and attached is a copy of the questionnaire. We would like you to complete and return it **before FEBRUARY 28th 1994**. Please make the time and effort to think carefully about your responses to the questions.

Confidentiality of your identity will be maintained at all times throughout the project. The information collected will be useful for the future progress and benefit of Māori law students, past, present and future.

At any time your answers need more space, please feel free to add further sheets of paper or write on the back of the relevant page.

Any questions or queries you may have about any part of this project will be gladly answered. Makere Papuni-Ball is our Research Assistant and will be helping us throughout the project.

Thank you for your co-operation and valued help.

Arohanui

Ani Mikaere, Stephanie Milroy

Māori Law Graduate Research Project:

Description and Specific Aims of this Research Project

There is currently no information available on the employment and status of Māori law graduates in the legal profession but it appears that a sizeable percentage of Māori law graduates, particularly Māori women graduates, do not pursue a career in legal practice. It is uncertain whether this is due to some aspect of their training or the nature and structure of the legal profession itself or because of other factors. The lack of practising Māori lawyers is a matter of concern to the wider Māori community, particularly to Māori law practitioners, to law teachers and to the profession in general. We are conducting a pilot project to research the following:

- i) The progress of Waikato Māori law graduates for the year following your graduation.
- ii) Your perceptions as to the extent to which your legal education has equipped you for the work you are doing or would like to do.
- iii) Your experiences as Māori both during your legal training and on going into practice to see what effect these might have had on your careers. As part of this we will be looking at your perceptions as to the effect of the Law School's commitment to biculturalism.

An important aim will be to help the graduates to maintain the network you have built up at law school and to encourage you to provide support to the current Māori law students.

This questionnaire is the first stage of our research. Thank you for your participation in this exercise. We intend to follow up with a further questionnaire towards the end of 1994 and hope you will be willing to contribute again at that time.

Accountability for use of Information

We consider **our principal responsibility to lie with those who participate in this project.** We hope to use the information to prepare a report recommending ways in which Māori participation in legal education and the legal profession might be increased. We undertake not to disclose information in such a way as to identify particular comments with individuals. If there is any information which you would like to be kept confidential, could you please indicate this on the form.

We hope to publish the report in Te Whakamarama as well as other legal periodicals. We would also hope to give the report to Te Hunga Roia Māori (Māori Law Society) as well as to Māori Law Student groups throughout the country. Prior to publication the report will be made available to you for comment.

Part I General Information

This will be used for future networking.

1. Name.
2. Address.
3. Phone No.
4. Age.
5. Iwi affiliation/s.
6. Please give the names and addresses of two people who could be contacted should your present address change.
7. Would you be prepared to continue your involvement with Māori law students at Waikato law school in the future?
8. Would you be interested in a Te Whakahiapo Re-union? How regularly should the re-union be held?

Part II Your Reasons For Coming To Law School

What factors influenced your decision to come to Law School (e.g. family encouragement, knowing a lawyer, interest in the legal profession, previous contact with the law, previous life experiences etc)?

10. Why did you choose Waikato Law School?
11. How did your previous experiences of the education system affect your decision to come to Law School?
12. How well did your earlier education equip you for making progress through the law degree?
13. What were the expectations of your whānau?
14. What were your expectations of Waikato Law School when you first arrived?
15. At that time, what did you expect or hope to do once you had graduated?

Part III Your experiences at Law School

16. If you were responsible for the content of the courses offered at Waikato Law School what changes would you make? What things would you retain?
17. What changes, if any, would you suggest be made to **the structure** of the degree?
18. What **teaching methods** were most helpful to you in your learning?
19. What were least helpful?
20. What other teaching methods might assist you in your learning?
21. Describe the forms of assessment that you encountered at Waikato Law School.
22. What assistance in your learning did you gain from the use of these forms of assessment?
23. What other forms of assessment might assist you?
24. What stresses/difficulties did you face as a **Māori** student ?
25. Describe any factors external to the Law School which may have impacted on your progress through and your perceptions of your legal education (e.g. family responsibilities, financial situation, previous life experiences etc).
26. What support was available to you to help you deal with these difficulties?
 - Academic
 - Cultural
 - Personal
27. In what ways were the teaching staff helpful to you as Māori law students? What improvements would you suggest?
28. In what ways were the **Māori** teaching staff helpful to you as Māori law students? What improvements would you suggest?
29. How effective do you think Te Whakahiapo is as a means of networking amongst the Māori students? What changes would you like to see?
30. What further measures would you suggest to strengthen the present Māori law student support network?
- 31 The principles that guide the Law School have been summarised as follows:

"the creation of an environment of participation, of challenge, debate and justice in which a legal education programme would be developed that is based on a commitment to professionalism, biculturalism and the analysis of the law and the legal system within the society in which laws are made and applied" (Dean of Law 1993).

How well, in your opinion, has the Law School carried these principles into practice? What improvements, if any, would you suggest?

Part IV Future Expectations

32. What are your current expectations as to your employment for next year?
33. What factors helped you choose this avenue of employment?
34. What do you hope to be doing in 5 years time?
35. Are there any further comments or suggestions you wish to make in regards to this questionnaire?

Thank you for the time you have taken to assist us.

APPENDIX 2: MĀORI DEMOGRAPHICS

SCHOOL OF LAW

All figures were retrieved from the University of Waikato student records data base and do not distinguish between undergraduate and graduate enrolments.

Category	1989 ¹	1990 ²	1991	1992	1993	1994	1995
<i>Enrolled</i>							
Total Māori Male	11	17	24	42	51	59	54
Total Māori Female	17	35	37	46	74	86	112
Total Māori	28	52	61	88	125	145	166
Total Student Population	169	266	341	507	662	699	736
Māori percentage total student population	16.6%	19.5%	17.9%	17.3%	18.9%	20.7%	22.5%

<i>Completed</i>							
Total Māori Male					8	12	5
Total Māori Female					14	12	12
Total Māori					22	24	17
Total Student Population					136	131	80 ³
Māori percentage total student population					16.1%	18.3%	21.3%

21 December 1995

¹ Based on enrolments in 0860.101 Legal Systems

² *loc.cit*

³ Please note: These figures do not include those students eligible to complete in 1995 subject to the completion of Honours.

GLOSSARY OF MĀORI TERMS

aroha	compassion
hapū	extended group consisting of many whānau
hui	gathering of people, meeting or occasion
iwi	tribal affiliation group
kanohi ki te kanohi	face to face
kaumātua	male elder(s)
kaupapa	topic
korero	talk
kuia	women elder
mahi	work
mamae	pain
marae	meeting house
mokopuna	grandchild
Pakeha	belonging to European descent
rangatiratanga	chieftainship; sovereignty
rangatahi	young person
runanga	assembly, council
tauhou	stranger
tamariki	child
tangata whenua	people belonging to any particular place.
taonga	highly treasured possession
te reo	Māori language
tikanga Māori	philosophies; Māori law
tipuna/tupuna	ancestor or grandparent (s)
Te Whare Wānanga	the place of learning; the university
whakaaro	shared thoughts
whakamā	shy
whakapapa	genealogy

whānau	kin or family group
whanaungatanga	the caring for and maintaining of contact with one's relations
whanaunga	relation
whenua	the land

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