

SYDNEY
UNIVERSITY
LAW SOCIETY

EVERY SHADE OF BLUE

Baker McKenzie &
Sydney University Law Society
Race Journal 2018



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ACKNOWLEDGEMENTS

Thank you to all those who contributed to the preparation and production of the inaugural SULT Race Journal 'Every Shade of Blue'. We are grateful to the USU, Baker McKenzie and the Sydney Law School for their ongoing support of SULT and its publications.

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ACKNOWLEDGEMENT OF COUNTRY

We would like to acknowledge and pay respect to the traditional owners of the land on which we meet, the Gadigal people of the Eora Nation. It is upon their ancestral lands that the University of Sydney is built. As we share our own knowledge and learning within this University may we also pay respect to the knowledge embedded forever within the Aboriginal Custodianship of Country.

EVERY SHADE OF BLUE

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FOREWORD

Ferdous Bahar
Editor-in-Chief

It is undeniable that Australia is a nation struggling to reconcile its policies of exclusion and othering with its claims to multiculturalism and being the land of the 'fair go'. We are deeply insecure about who we allow inside our borders and consider 'Australian', despite the undeniable fact that we are a nation forged on the forced invasion and subordination of Aboriginal Australians, the true custodians of this land. Over the past few months alone we have seen the judiciary criticised by politicians for 'soft-sentencing' in relation to "African gangs"^[1], a senator using his maiden speech in Parliament to encourage a return to the "historic European Christian composition of Australian society"^[2], another senator attempting to pass a motion acknowledging that "it is OK to be white"^[3] and our newest prime minister, our fifth in five years, is well known for his leading role in Operation Sovereign Borders, a military campaign to "stop the boats"^[4].

There has never been a more appropriate time to discuss the intersection between race and the law and to recognise our responsibility as law students and legal practitioners to spearhead the conversations we are having about race. I am thrilled to deliver the 2018 edition of the Sydney University Law Society Race Journal titled 'Every shade of Blue', focusing on maintaining mental wellbeing as a person of colour navigating, and often battling through, the legal system and legal profession.

Gladys's Lai's artistic piece powerfully captures the uncertainty experienced by many students of colour as they try to realise their place and unique calling in the legal profession. In a country where no current or former Justices of the High Court are people of colour, it is profoundly important to recognise the limits that this profession may inadvertently place on the aspirations of young law students of colour. When building our castles in the sky, there is a tendency to fall into either extreme cynicism or reckless optimism. Gladys powerfully articulates this in her abstract when she says, "As I read about Gummow,

Windeyer and Mason, my last name begins to taste foreign on my own tongue. And so, I shift once again between romance and melancholy, studying the words of old, white men, not knowing if I will ever get the opportunity to write my own."

"In conversation with Dr Ghena Krayem" provides an invaluable snapshot of the incredible life and career of Sydney Law School Senior Lecturer Dr Ghena Krayem. Few will challenge the fact that studying law demands an almost superhuman ability to multi-task: juggling hundreds of pages of weekly readings, work commitments, home life, and surviving high-pressure exam conditions where final exams for law subjects are frequently worth over 60% of the final mark. In addition to this, law students know too well that securing a job upon graduation in the legal profession demands a high degree of proficiency in one's academic marks and indicators of one's 'all-roundedness' through extra-curricular commitment and a good combination of legal and non-legal work experience. For the person of colour there is the additional stressor of 'making it' in a profession that is severely lacking in cultural diversity.^[5] As one of the very few visibly Muslim women on campus, let alone the Sydney Law School, in the 1990s, we learn much from Dr Krayem about the importance of maintaining an ambitious and positive outlook even when the odds seem stacked against you.

This outlook is revisited in Shaun Chng's piece which identifies the exclusionary policies perpetuated against international students looking to apply the knowledge and skills gained throughout their degree to the Australian workforce. In this critical and heartfelt open letter, we recognise the feelings of exclusion and hopelessness that may arise for students that, collectively, contribute billions of dollars to the Australian economy each year but are excluded from even applying for many workplaces as they are deemed a 'flight risk'.

Rameen Hayat Malik's piece combines poetry,

photography and literary journalism to explore the struggle to reclaim one's own narrative as a Muslim woman navigating the law. Through personal reflections and interviews with Amani Haydar and Sara Mansour, this piece presents the uncomfortable reality of the conflict between the dominant narrative and personal narrative for people of colour. It asks the essential question, 'how can we engage fully in society *and* project our most authentic selves?'

The struggle to project an authentic self is further explored in Anh-Tuan Nguyen's essay which critiques the perception of law students as extroverted, ambitious and self-assured, as generally unchallenged by society and by the law school itself. This piece highlights the mental toll associated with conforming to the 'law school type' as a student of colour, and also reflects on theories of introversion and extroversion to help identify the best strategy for fostering a more inclusive and nurturing law school environment.

Finally, "Screwed, Blued and Tattooed" provides a critical yet forward-looking essay investigating the interactions between the legal system and Indigenous Australians suffering from mental and cognitive impairments. The long-standing, accepted exoneration from liability of individuals lacking mental capacity is contrasted with the treatment of Indigenous Australians suffering mental impairments. This piece considers the inadequate diversionary programs and overall lack of nuanced understandings about the wide-ranging and complex mental health issues faced by our First Peoples.

We are thrilled and deeply gratified to also include Sara Mansour's spoken word poem "Not in my name" and Amani Haydar's Archibald Prize finalist portrait "Insert headline here" in this publication. Sara's poem challenges the reader - or listener - to radically reconceptualise the simplistic labelling of minorities and to identify the deeply politicised nature of terms such as 'terrorism' and 'oppression'. This poem insists on the individual's reclamation of their own identity.

Amani's self-portrait provides a profoundly bold and moving challenge to the headlines that pervaded media stories about the murder of her mother. The vibrant patterns and colours in the piece and the upright, defiant body language of the persona powerfully subvert notions of vulnerability and helplessness that often characterise stories about female victims of violence. No words that I write in this foreword can do justice to this exceptional work or indeed the extraordinary strength of the artist. I can only convey my extreme gratitude to Amani for graciously providing us with this image of her painting for inclusion in our journal.

The Race Journal, and indeed the Ethnocultural portfolio as a whole, demonstrates SULS' commitment to encouraging open and honest conversations about the intersectionality of race and the law. Only through applying an intersectional approach can we work towards building a truly multicultural and inclusive society. The journal that you now hold in your hands (or view on your screen) is our sincere attempt to work towards this end.

I would like to thank my Editors Luckme Vimalarajah and Natiq Islam for their vision and assistance in curating this publication. I would like to thank Elsie Cheung and Geneve Bullo for their efforts in coordinating the panel launch of this journal. I would also like to thank Design Director Christina Zhang and Publications Director Aleksandra Pasternacki for their assistance in realising our vision through design and print. This journal looks and feel exactly like we wanted it to and we are incredibly grateful for your efforts.

Finally, thank YOU, our curious reader, for picking up this journal and getting this far in the foreword. This journal is the first of what we hope to be many future editions of the Race Journal under the Ethnocultural portfolio and I hope that each edition is unflinchingly bold, unapologetic and nuanced in its investigation of the intersection between race and the law. ■

ABSTRACT

Gladys Lai

As a student, it is tempting to look at the future with either a naive romanticism, or an overwhelming pessimism. I often find myself existing in the in-between. Sitting on the law benches and looking out at the glittering cityscape, it is hard not to dream of a future filled with cases, excitement and glass-corner offices. But direction is difficult to find when you exist on the peripheries. As I read about Gummow, Windeyer and Mason, my last name begins to taste foreign on my own tongue. And so, I shift once again between romance and melancholy, studying the words of old, white men, not knowing if I will ever get the opportunity to write my own. This piece traces that uncertainty. It is an uncertainty I have experienced time and time again, gazing at a world through rose-tinted glass, a world that seems so inviting, so precarious, but most of all, out of my reach. ■

HOPE

Gladys Lai



IN CONVERSATION WITH DR GHENA KRAYEM

Luckme and Natiq Islam

Being a person of colour yourself, how important is it to you that mental health is actively discussed within the law school?

Mental health is so critical for every student and all academics. When I attend classes I can see the amount of readings and assessments. I can see on students faces how stressed they are. From a lecturer's perspective I kind of respond to it. Often people are reluctant to speak about mental health. Law is somewhere people have made an impression that you need to work hard and be tough. But this shouldn't come as the cost of mental wellbeing. Sometimes you yourself must think about whether you need to reach out. You shouldn't be ashamed of it; you should be proud to reach out and seek assistance.

And as a former student at the University of Sydney Law School, what led you to choose a Bachelor of Laws?

I wanted to do law because I wanted to give voice to a lot of people whose voices weren't being heard. I also thought law was an empowering degree that closes the gaps and builds bridges. Well, it is pretty idealistic as a high school student, but I was very fascinated about how law operated.

Why Sydney University?

I thought it was the best place to be. I went to a public school in South Western Sydney and one day I met my career adviser and told her I wanted to do law at Sydney University, she laughed and said don't be silly no one has entered law from this school. Well this response made me even more determined and now I have been here for quite a long period of time, and I am very proud of my long association with Sydney University.

Can we say that the naysayers would have definitely spurred you into doing Law?

Definitely. Many people around me said that if you do law you will have to compromise your values and beliefs. But these views made me more determined to choose law as a pathway.

Speaking about your entrance into University of Sydney, how would you describe your experience as a student at University of Sydney? What kind of challenges did you face?

I entered law school in 1994, the university generally and law especially was not culturally diverse and being in the cohort I was in, I was overwhelmed at the start to keep up with studies. But after I got through my first semester it was okay. Despite the challenges, there were so many tremendous people (law school friends and academics) who just pushed me through and encouraged me to be the best I could be. Although there were barriers and challenges, I wouldn't say these barriers defined my experience as a law student. I found my way back here as member of staff and that was with the encouragement and support of many great people here at the law school.

As you did mention, students regularly feel overwhelmed with law school in their early years of studies. What advice would you give to students to keep up with their mental health?

For me it was about staying on top of studies and also knowing that there were people and resources available if I needed to reach out. University is different from high school but you need to establish a root or a community for yourself in university. Reach out for help, there are many resources in the university itself to assist with positive mental health. You are commencing tertiary studies at a critical age, you may face a great deal of anxiety in the first year of university but believe in yourself - you can get through it. My advice is don't place too high expectations on yourself. I know many of my friends who left law school not because this was not a culturally diverse place but rather because it was an overwhelming experience. Everyone needs

support no matter where you come from, give yourself some time to settle.

How have you been able to balance your multiple responsibilities as you have progressed in your legal career?

I had two children while I was doing my PhD and was working full time. My PhD took longer than I expected. The decisions I made were what worked for me and my family and sometimes it does not mean other people will have the same plan as I did. I have always been prepared to be flexible and ready for change. Once, I was working full time, finishing my PhD, doing College of Law and also looking after my children. Looking back, it was crazy. You have to be mindful, and as you grow older you tend to be more reflective. In terms of mental health, as a woman in the workforce, we sometimes feel the need to do everything all at the same time. You sometimes have to make a tough call. I stepped out of full time work and concentrated on my children and PhD. Some people thought it was a career disaster, but that is one of the best decisions I have made because when I came back I was in a much better place and everything just progressed from there. You know yourself best so be brave to make the tough decisions that seem to work best for you.

When you graduated as a law student, were you hesitant to apply for jobs or was there biases when you applied?

In my final year, I applied for a graduate position, where it was a quite detailed application process. I had received First Class Honours and I applied for over 20 graduate positions, but only got an interview for one and needless to say I got that job, but many of my peers got far more interviews. However I didn't end up taking up that position as I got a job as tipstaff to Windeyer J at the Supreme Court and that was an amazing experience. I encourage all my students to try to get one of those positions because the experience is so valuable. During that time, I saw my lecturers and they encouraged me to apply for PhD. I also loved teaching, so I applied for a scholarship. I got both and that's how I started.

Approximately a year ago, there was media criticism about the alleged teaching of sharia law at the University. What challenges did this bring to you and the law school and how did it affect your mental health?

After The Daily Telegraph articles, it was very difficult dealing with a great volume of hate mail. Saying that the issue didn't have an impact on me would be a complete lie. It was one of the most difficult events I have been through I would come to work and have voicemails full of hate. However, by the end of last year, I thought to myself 'how can I turn this negative experience into a more positive one?'. I organised a symposium about agency of Muslim women in Australia bringing together leading academics and activists from across the country. I don't think anyone should be silenced, everyone should have their voices heard. Perhaps this event reflects one of the reasons that I wanted to do law as a young idealistic student.

What did the University do and how did it respond to the media criticism?

The University has been great and extremely supportive. I enjoy the tremendous support of my colleagues at the law school and broader University environment and feel very privileged to be part of this institution.

What do you think the law society or corporate firms should do to better address diversity in the legal profession?

I think we need to celebrate diversity. So long as we are afraid of diversity as something that should be accommodated or tolerated, it will be an issue. But when someone sees multiculturalism as a strength then the company or institution grows. That needs to come from the political leaders to set the tone that diversity isn't something bad. People of diverse background should not be tolerated but must be a part of the society. It is unfortunate that we have to face these barriers. But at the end of the day, people need to recognise the value of a diverse workplace.

Would you describe yourself as an optimist in terms of maintaining mental wellbeing?

I am an optimist generally, but being an optimist doesn't mean denying reality. It doesn't mean we hide the struggles or ignore the challenges. It means we need to be hopeful that we can start to address these important issues in our profession more broadly.

Finally, what do you think people of colour at the law school could do to better maintain positive mental wellbeing?

The Ethnocultural subcommittee is a great initiative. I think it is a great step. It is a voice of the people of colour. When it comes from the students themselves it is a more effective voice in articulating the needs of students and their experiences. It is law students that have the experience, so they need to speak up. Finally, be brave and write your own narrative - I hope that in years to come there won't be a need to have a conversation of this nature because we have learnt to see beyond our differences. ■

BREAKING BARRIERS: AN OPEN LETTER TO INTERNATIONAL STUDENTS

Shaun Chng

My fellow international students,

Five years ago, I left my friends, family and life back home in Malaysia to embark on a journey 'down under' in search of better education and employment opportunities. Like many of you, one of the main reasons why I chose Australia over other countries was because of my understanding that Australia was a country of equal employment opportunities and the possibility for international students to obtain work and resident visas upon finishing university. Little did I know that while it was *possible*, it was not at all as easy as it sounded.

As an international student, it can be incredibly difficult to find work or even get unpaid internships. When applying for work or even unpaid internships, there are three standard responses for international students:

1. Outright rejection because "you are an international student"
2. Indirect rejection because "you are not a permanent resident or citizen of Australia"
3. Not hearing back at all despite spending huge amounts of time on an application

It can be so frustrating to face rejection after rejection for something that you cannot immediately change and you might even feel that you are being discriminated against for your nationality.

Please know that you are not alone.

As of March 2018, there are approximately 800,000 individuals across Australia in the same

position as you.^[1] This number amounts to approximately 3.5% of the Australian population. International education now contributes \$30 billion into the Australian economy, creating new businesses, infrastructure and more jobs, yet many Australian workplaces choose to exclude international students or, more commonly, have a recruitment policy which usually states 'to be eligible for this role, you must be a permanent resident or citizen of Australia'. Having been an international student myself, I understand your frustrations as I, too, once faced a deluge of rejections and being unable to break the international student barrier that we are all too familiar with.

Three years ago, my corporations law professor walked into the lecture theatre and said, "Happy hunger games!". I was confused. I would later find out that it was clerkship application season. Admittedly, I did not know what a clerkship was. This was probably because throughout the three years since I arrived alone in Australia, I was too preoccupied with simply finding my feet, making new friends, adapting and assimilating to new cultures and surroundings. My friends soon explained the clerkship process and encouraged me to attend a law careers' fair the following week. Intrigued, I did some general research and found more information online. A question then occurred to me, "Would law firms even consider a candidate who is not Australian?". I figured that I would have to find out for myself at the fair. There were many law firms present and I remember first approaching an international law firm's stall asking the question that had been lingering at the back of mind. I spoke to a recruitment officer from that firm, who told me

international student applications would not be accepted. It was explained to me that I was a 'flight risk' and that international students could not guarantee that they would stay in Australia indefinitely, therefore it would be 'a waste of time' to train and use up the firm's resources on international students, when they will likely return to their home countries. I was shocked and disappointed. Knowing how hard my parents and I had worked for me to move to Australia, I remember thinking to myself 'wouldn't all that effort have made me more invested in staying?' I then walked to the next law firm's stall whose representatives also told me that they did not take international students 'as a matter of policy'. Telling myself that third time's a charm, I approached the representatives of a third law firm and the representative there didn't even have an answer to my question. She simply took my contact details and told me that she would 'check and get back to me' (she never did). I left the firm after my third unsuccessful attempt and did not apply for clerkships that year. Over the course of the following two years, I applied to law firms, government agencies and other professional service firms, and have been rejected countless times for not being a permanent resident or citizen of Australia.

Last year, I started volunteering at Redfern Legal Centre (RLC) which has a dedicated international student service. I was placed with the employment lawyer assisting clients with their employment issues, many of whom were international students and migrant workers who have been unfairly treated, severely underpaid and exploited by their employer. While I was appalled, the rampant exploitation among these groups was unsurprising. Due to the barriers faced by migrant workers and international students in getting jobs in Australia along with the lack of knowledge about basic workplace rights, often the only two options for international students are to be employed by dodgy businesses who pay 'cash in hand' or to be unemployed, which is not really an option for those who have relocated internationally and are trying to make ends meet. Even when these individuals were advised of their workplace rights and realised that they have been exploited, there were often many individuals who had reservations and reluctance coming forward and taking legal action due to a fear of losing their jobs and not being able to secure another. This fear was no stranger to me. Around the same time I started volunteering at RLC, I managed a lucky break and got a job working part time as a paralegal at a small law firm where I was underpaid the whole time. Despite being fully aware of my workplace rights and entitlements, I

chose not to raise the issue in fear of losing my job. In fact, I often tried to convince myself that it was okay by reminding myself how lucky I was to even have a job where I was not only gaining legal experience but was also receiving some form of income even if it was underpaid, especially when there were others who could not even find unpaid work. Many international students live in this precarious position of not being able to secure full time work after graduating due to a lack of work experience, and at the same time not being able to gain such experience in the first place because many workplaces have policies exclude them.

My initial, positive perception of the equal employment opportunities in Australia started to wane over the years. However, this all changed after a chance encounter. During my time at RLC, I worked closely with a pro bono lawyer from Clayton Utz (CU). She had asked me what my plans were after finishing law school and my placement at RLC. After explaining the difficulties I have faced in securing work over the last 5 years in Australia due to being an international student, she told me that CU did not have that exclusion policy, they did take on international students, and she told me to keep an eye out for future opportunities. I was initially sceptical when she told me this, but after looking up CU's graduate careers page, there it was: a statement indicating that international student applications for clerkships would be accepted and welcomed as long as valid working rights and entitlements can be shown. I wanted to apply for a clerkship with CU right there and then, but unfortunately the application season was over.

Serendipitously, a month later, the Brisbane office of CU was looking to hire more graduates for their graduate program. I applied immediately.

This was the very first time that I did not feel excluded as an international student in an application process, the first time I did not have to worry about my international background, and the first time I did not feel an immense, immovable barrier segregating me from a chance to be considered. Throughout the various stages of the application process, never once was my status as an international student an issue. Even before I knew the outcome of my application, I felt happy, at ease and, above all, included.

Today, I am a graduate lawyer at the Brisbane office of CU under a graduate working visa and am currently in the process of applying for my permanent residency. I am grateful that I found my place with a firm that

truly champions diversity and inclusion, and accepts me for who I am. Besides being involved in various cultural diversity initiatives, I am also involved in other inclusion initiatives such as being an LGBT ally and a mental health champion. While I am at an incredibly happy and busy stage of my life at the moment, I will never forget the long and trying journey, with all of its challenges, that I have had to traverse to get here today.

My friends, being an international student is not easy.. Not only have you left your homes behind and started a whole new life in a foreign land, you are also faced with the difficulty in finding work and making a life for yourself in Australia. I wanted to share my journey with you because I want all of you to know that you are not alone.

Whatever you might face, my message to you is to be resilient and to never give up. You are a force to be reckoned with!

Best,

Shaun Chng ■

**THE PERSONAL IS POLITICAL:
RECLAIMING PERSONAL
STORIES THROUGH ART**

Rameen Hayat Malik

*"I've never know what it meant to be blank
to be another face in the crowd
another voice in the buzz
and just write
not scrape my way over the caricatures of history
in an attempt to leave a mark
may I please have a blank canvas"*

My dad came to Australia in 1986. All this time, he has lived in the same suburb. He has the same neighbours. He gets the same newspaper thrown into the same balcony: 7am every morning.

As kids, the paper meant the Sunday section, Garfield comics, attempting crosswords we could never finish, checking the tv guide for cartoons and looking at every pretty picture in between. I remember when that turned into reading the paper every day after school to "know what was happening in the world" as my dad would tell me.

Eventually, it turned into wanting to see what the world was saying about us. It was like wanting to watch your own car crash. Knowing the ending but not looking away.

Sometimes you wouldn't even realise how all those stories funnelled into your everyday life. The first I can remember is being asked by family multiple times whether I wanted to wear the hijab, receiving hints to about its likely reception by broader Australian society, but never explicitly being told. How could a parent tell you that an integral part of your identity was currently in the firing line of the media and politics?

I can't pinpoint the exact moment it happened, but it feels like "The Personal is Political" is a phrase that has rung true for me and so many like me whether we were aware of it or not.

I decided to study the law out of an idealistic view that no matter what the current trend of the media was, no matter the political discourse, the law would remain a constant. It was a source of rationality and defined the tenets of morality and justice in society regardless of who you were. I needed a constant that was on my side.

Even then, when buzzwords like "terror laws", "migration" or "racism" were mentioned in a law class I would feel a certain shift, as if people were waiting for me to speak as a self-proclaimed expert on these matters. Many times, I wouldn't speak out of pure stubbornness and then, sometimes out of frustration I would, trying not to let my emotions get in the way but then... just stopping as my voice would break.

I've been trying to figure out how to reclaim the narrative that has been told for me. Writing, poetry and photography are my ways of re-capturing the essence of who I am, to alleviate that sense of helplessness by actively contributing my words to

the noise out there.

This piece is another step in trying to do that; looking behind the veil of news headlines and political conversations to see who is left behind standing. These photos put a real face to a real headline. They pinpoint moments in my subject's life where they felt their personal voice turned into a political slogan

These stories are of two courageous Muslim women in the law that I look up to. Women who have told their stories in their own way and on their own terms.

They have used the artistic medium - Sara Mansour through her spoken word poetry and Amani Haydar through her painting - to empower not only themselves but so many others who remain disenfranchised by having their personal voice taken from them.

Sara Mansour is a commercial lawyer, spoken word poet and co-founder of the Bankstown Poetry Slam, the largest regular spoken word event in Australia.

As I wait for Sara outside of her office on George Street, I remember Sara runs on 'Middle Eastern Standard Time' as she likes to call it. She greets me with a wide smile and immediately commands the dessert menu before we begin.

I ask her about growing up in Western Sydney and when she realised what society was saying about her Muslim, Arab identity.

As is the case for almost every single Muslim kid, Sara describes 9/11 as a trigger that made her realize she was different to other people. She recalls hearing stories of kids from other schools being targeted because they were Muslim.

"So instantly, not only were our identities politicised, but our names, our skin, our parents, our hijabs," she says.

Sara mentions rebelling against the idea of being Australian in the wake of the Cronulla riots.

"I said, I am not Australian, I am Lebanese, I am Muslim. I rejected being Australian because Australia for me was islamophobia, anti-Arab, anti-Western Sydney, sensationalized headlines and constant politicization of our bodies and our communities".

It was a sentiment that simmered below the surface until Sara got involved with spoken word poetry in her second year of university. She remembers listening to a poem by Rafeef Ziadeh, a Palestinian activist and spoken word poet, where Ziadeh says: "I am an Arab woman of colour and we come in all shades of anger".

Sara repeats Ziadeh's powerful words with a smile. "That, for me, was so revolutionary. It was the first time I had seen an Arab woman who was not only validating her anger, but owning it and being productive with it by using her art in a meaningful way. I wanted a piece of that, so I started writing and performing."

This was around the time Sara co-founded the Bankstown Poetry Slam. When Sara talks about the Bankstown Poetry Slam community, or the 'slamily', I feel her story resonate with my own.

I joined the Bankstown Poetry Slam at the end of 2014. I'd never written for myself before. I'd gone to a slam previously and was blown away by the power of honest and raw storytelling. I was sick of debating, preaching and talking but always being knocked down and feeling like my voice couldn't contribute to meaningful discourse. I wanted to what the slam poets were doing. Put myself out there, and let the audience decide what they wanted to gain from it.

I've been coming back ever since, to a loving a community of people who are ready to listen to you and back you.

The Bankstown Poetry Slam is a safe space for many young people from Western Sydney who grapple with being told their identity and redefining it for themselves, something both Sara and I have experienced on that stage.

"We've created a genuine, authentic space where anyone can say anything they want; we don't limit free speech. Those who try to penetrate a space like this, say they support free speech, however the free speech of those in minority groups has an asterisk, it is conditional."

What I have loved about Sara's poetry is its ability to make you feel nostalgic about people you've never met. Sara talks about how, when she started, she wrote about everything except faith. Being visibly Muslim, you balance a fine line between falling into a stereotype and telling your lived experiences. I have those moments too, writing a piece and thinking, is

it too political?

"I wanted to talk about all the other facets of my personality I was passionate about, my parents, my tayta [grandma], my work," she says.

In 2014, around the time of the Lindt Café siege, Sara wrote her first political piece. Muslim women were being physically and verbally targeted, with one woman being bashed for wearing a hijab causing the rise of the social media movement 'I'll ride with you', a movement Sara describes as "a tokenistic, plain lip service type slogan, because when it counts no one does anything".

She recites a few lines from her poem:

*"I didn't want to write this piece
I didn't want these topics to define my poetry
But I cannot stand for you wanting to define me
and the threads I wear on my head"*

It was around then I had performed my very first spoken word poem:

*"it is the misconstrued phrases
the adolescent phases
of solidarity #illridewithyou
of polarity #killallmuslims
to ask me what side I am on,
I want to ask you the same"*

I ask Sara if she feels as though she's been forced to be a mascot or representative for her community.

"I largely see myself as a representative for myself," she says.

"I tried to be pragmatic about it, but of course you'll always be a representative. If you're from a marginalised community, you are pigeonholed and stereotyped without choice."

With the recent treatment of Muslims in mainstream media including Yassmin Abdel Magied, Sara says "It was very telling and sent a message to people like you and I that you can only grow as much as they let you and no matter how much of a model minority you are, if you step out of line, you will not have a place anymore in the public space."

"There are limitations to what we can say and do," she says.

Sara's relationship with the law and the arts is

underpinned by her passion for justice. She remembers being politically aware as a child, learning about the plight of Palestinians, Indigenous Australians and other conflicts around the world from her father. That empathy led her towards a law degree.

"The law degree informed my politics about these issues and how I think and go about things; whether its speaking up against racial discrimination or my role in the workplace."

We end up talking about Sara's experiences as one of the few visibly Muslim women in the corporate legal environment. As diversity hiring becomes the new buzzword of the recruitment process I have just begun to navigate, I'm particularly intrigued by what she has to say.

"I found it interesting that my diversity was appreciated when it represented the firm and its image. However, within my team I personally didn't feel that my diversity was supported. You can't employ a person for their diversity and not hire them as a whole and for the personal needs that come out of it" She says.

"We know that diversity adds value to an organisation. Organisations need to have policies in place to gain the rewards associated with it. There has to be a social consciousness to diversity and having programs in place to facilitate the notion of giving back to disenfranchised communities where there isn't access to reach these organisations professionally."

As we round off, we fight over the bill for our desserts in typical ethnic fashion (she ends up winning because of seniority). As I wait for her, I am in awe of Sara's hyperawareness when it comes to understanding her role in society as a Muslim woman. For her, it began with reclaiming her story through her poetry, but in the process, she has also created platforms for people like me to express themselves with zeal and determination.

Amani Haydar is a lawyer, domestic violence advocate and artist. Her painting was a finalist in this year's Archibald prize.

The first time I read about Amani was last year; the three Haydar sisters had proudly accepted their late mother's degree. I would come to read more about

Amani as her father faced trial for the murder of their mother. I remember reading about how Amani healed after it, using advocacy to empower others in similar situations.

Even then, I remember in complete awe, talking to anyone I had met about this amazing woman who was raising two young children, advocating for women all while expressing her creativity through painting.

When I saw Amani was a finalist for the Archibald Prize, with a painting named 'Insert Headline Here' I beamed with pride at the title. Here she was: not defending, not cowering, but *grabbing* the story of three generations of fiercely strong women and putting it out there on her own terms.

I hadn't met Amani before this article. I didn't really know what to expect. As I look around a local café waiting for Amani, I see her walking purposefully towards me. Soon, I feel as though I am talking to an old friend, going off on tangents about applying for jobs in law, our mutual love of photography and everything in between. I have to stop myself from simply *chatting* our time away.

I ask Amani about the first time she felt her identity had been politicised. I had expected her to talk about her mother's story, but instead she speaks about her grandmother's death in 2006 when war had broken out in South Lebanon. Her family found out via a report on Al-Jazeera.

Amani talks about how it affected the way she saw other news reports.

"It all became really personal," she says. "I was able to really empathise with people in these stories, rather than falling for the façade of numbers and reports," she says.

Amani had developed her awareness of the media at a young age, regulating what she watched to limit her exposure to the vicarious trauma as the incident made headlines in Australia and internationally. Her grandmother's story would receive further coverage as the NGO Human Rights Watch published a subsequent report 'Why They Died' investigating potential war crimes within that region with interviews of several family members.

She says "It was immediately a political event. It was the first time I had felt the impact on my community as it brought home the horrors of war."

Being from a Pakistani background myself, I often see stories of conflict in the region reduced to a single headline. I wonder if Amani feels as though her grandmother's story was ever reduced in such a way.

She answers with "yes and no". She notes that most outlets were interested in a 'people story' and wanted to separate it from the politics.

"My grandparents and parents grew up in South Lebanon. Their existence was always in a politicised, dangerous atmosphere. I knew that this story was more than my grandmother having nine children and being a very nice lady."

"It becomes frustrating when people want the human side of you and your story, but don't want the politics, don't want your opinion and don't want to see you as an activist."

At the time, a photo was taken by a Fairfax publication of Amani's mother holding a picture of her own mother. The same black and white image, with its faded Fairfax watermark features itself in Amani's Archibald Prize painting.

I ask Amani why she decided to include that photo in her painting.

"When my mother was murdered by my father in 2015, some media outlets used this image to create a story of two tragedies in one family and so it was recirculated in that context."

Amani talks about not engaging with the media in the two years following her mother's murder. In addition to the traumatic loss of her mother, she was also experiencing her first pregnancy as well as taking care of her sisters, and needed time to refocus.

She says, "I wanted to do justice to the topic and not discuss it in a flippant way, such that it would be disregarded as emotional."

I am both amazed and saddened by Amani's statement. I am amazed at the conscious foresight that Amani possesses, and the realisation that her story went beyond the personal at such an early stage of processing this trauma. I am also saddened that the current media landscape would invalidate emotion when it comes to such a personal topic as gender-based violence.

"As the time went by, I realised how much power you lose as a victim of crime when your story is being

told through the mouth of others."

Amani has used both her words and her art to tell this story. Her love of visual arts began in school. She would lament not being able to express her creativity in her everyday life and hadn't let go of that desire for artistic expression for a while.

Last year, she set herself the goal of creating a painting that would allow her to truly reclaim her own narrative.

"I decided I would do it then. I ordered the canvas. The image found itself in my head. I started it exactly three years to the day my mum had been murdered. I worked on the painting for ten days."

Amani talks about the intergenerational trauma following her mother's death.

"How do I continue my life in an optimistic and resilient way? All of things came together to form that painting."

We discuss whether her Muslim identity played into a narrative around culture and violence.

"I thought this is going to be sensationalised into a culture story and at the same time trivialise the issue and the fact that my mum is dead. She was the 29th out of 80 women that year who lost their life to gender based violence."

"I didn't get to grieve this like every other member of society. I have to worry about the racialized aspect of it."

She acknowledges that fact that most reporting didn't take such a stance, with a push by many organisations to report properly on gender based violence and not making the issue extraneous to the fact that:

"Your number one risk factor for being abused is that you're a woman, not you culture or any other factor."

Watching her life become part of this political discussion around gender based violence was not a pivotal moment in Amani's life.

Amani describes the experience of being a lawyer dealing with a legal issue in her own life as empowering because that shadow and veil of mystery surrounding the process is lifted.

The first thing she mentions is the delay. It was two years until the trial started. It was after two years and one day that a verdict arrived. It was after two years and two months that a sentence was handed down. It was two years of uncertainty. It was two years of going back to counselling as the trial re-traumatised.

We talk about other procedural details of the process, from knowing what would be considered admissible evidence, to knowing things such as a memory of a conversation would unfortunately be inadmissible. It was knowing tangential issues such as the estate would not be dealt with until the trial was over to where victims are seated in a courtroom.

"At the same time, the legal process is such a vital aspect of the victim's healing process."

"He was found guilty of murder. Hearing that, validated by a judge, in the public sphere, was a massive relief."

"There is nothing a victim wants more that feeling their pain has been heard and validated."

On life after the verdict, Amani says: "I am still dealing with the issues that have arisen from the trial."

"There is no court, there is no structure, there are conversations you haven't had, things you haven't heard, including genuine remorse. You have to wait through the uncertainty of, 'will they appeal? Will they accept this?'"

This bittersweet process has still allowed a sense of healing and justice for Amani. As she advocates with organisations such as the Bankstown Women's Health Centre she hopes to encourage more conversation and activism about domestic violence.

"It's not just a theoretical exercise we're having where we're talking about gender equality in the abstract, but we're talking about real people's lived experiences," she says.

"I couldn't *not* talk about it because I feel a sense of responsibility to people who might not have the resources or are still stuck in that abusive relationship."

As we reach the end of our conversation, Amani reminds me that it is important to talk about these experiences so long as they are not at the expense of mental wellbeing. Even then, she ends our conversation with the statement: "connecting with people brings so much healing for me".

I take a moment to sit in the driver's seat of my car as I'm about to head home and just... think. Amani is a force of nature; phenomenal, witty, funny and intelligent. She is strength personified, a woman who commands her own. She paints her experiences with bold honesty and she advocates the same way.

“and just speak

not scream

not riot

not plead

over the voices of those who told us to be silent

may I please have silence” ■



About The Picture (Sara):

"I hated the way they made the words Muslim and Terror synonymous. The biggest issue for me right now is the media's unfettered discretion to post columns like this. People are allowed to say that under the guise of free speech, when it's actually harmful. This speech is disenfranchising minority communities. Many people in Australia read this rhetoric and regurgitate what they have consumed without picking it apart and asking themselves why they believe it. There is a difference between reading an article and actually researching to have an informed opinion."



About The Picture (Amani):

"I was really annoyed with that headline. Because we had launched a campaign on domestic violence on International Women's Day. The article focused on everything but the efforts of the women involved in making the event possible. It made me sound like a little girl. We don't sit at home thinking, how am I going to challenge stereotypes. We do what is authentic to us. I couldn't see how this phrase related to my story. I know how to take control of my own story, I can say no when I don't want to speak to the media, when I don't want to answer a question. This my story, I will tell it the way I want to tell it."

NOT IN MY NAME

Sara Mansour

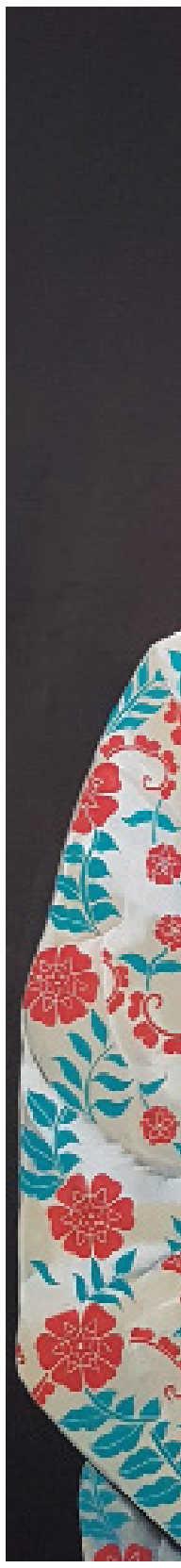
ISIS do not represent me
Just like there is nothing Australian about that
defence league
And the word sorry will not be used by this Muslim to
affirm our solidarity
Every war is a crime against humanity but this war
especially has 1.6 billion casualties globally in every
crevice that the news can reach
Truth be told
We are regressing as a nation into policies and
ideologies unlike those we claim to uphold
The upper echelons of our society are festering with
white ants hungry for wood to burn
For change, I yearn
For yesterday, a woman's head was bashed in and she
was thrown out of a train
Tell me, who the terrorist is?
Tell me, who the terrorists are, when all its taken
are some front cover pages and Daily Telegraph
sensations to turn our community into this farce?
I'll tell you how it is.
I am oppressed. Yes. I am oppressed.
But only
by your expectations, your dissertations, your
freedoms and your demons
I am oppressed by you men
By you women
That think that your idea of liberation is superior to
mine
I will never forget the time a young boy, upon
realising what faith this article represents,
Exclaimed... I hate muslims!

We are breeding hate
For you cannot raise children with twisted ideologies
They remain but children in adult bodies
They read stories
Written with the inks of our pillaged dreams
Scratched upon our doors, we keep them locked
these days
The winds are blowing, they are shaking the windows
and the glass is wailing in defiance
The winds are cold, and we are history's collateral
damage
And I never wanted to write this piece
I didn't want these topics to define my poetry
But I will not stand for anyone trying to define me
Or for anyone to weave their stories into the threads
I wear on my head
This burden is heavy enough as it is.
And still I say... Not in my name
Will the hijab be vilified as a symbol for your political
agendas
Will my beliefs be hijacked
Will the spring soil within me be salted
Because it is time for me to bloom revolutions.
I know it is time.
My father told me, and he is a wise man
He loves gardening
He taught me that racism and hatred are weeds that
grow in the shadows of ignorance and fear
And the only way to kill weeds is to learn how to
manipulate the soil
The dirt under his fingers is holy
The dirt under his fingers is my ailment
My strength to continue singing
Not in my name sir.
Not in our names. ■

INSERT HEADLINE HERE*

Amani Haydar

**This painting by Amani Haydar was a finalist in the 2018 Archibald Prize. We are honoured to have been provided with this image of her painting - provided to us by Amani herself - for inclusion in the 2018 SALS Race Journal.*





INTROVERSION IN THE LAW: A SPIRAL OF SILENCE

Anh-Tuan Nguyen

Coming from a reserved family, from an ethnic and traditionalist background with strong ties to what most people would find as archaic attitudes to mental health, Law School appeared to be an escapist opportunity to push my boundaries and show a more outgoing side of myself I had rarely shown. In high school, I was the recluse - a habitual library-goer and when it came to group discussions in class or the playground, I was more likely to be the avid listener than student leader. Perhaps it was, as a study from Cambridge University on cross-cultural learning styles has also affirmed, a product of the conservatism of my South East Asian culture, that I have been told, gives off the impression of being indecisive, timid and unassertive at times.^[1] Needless to say, it was an isolating time, where in the spare moments of reflective thought, my mind was filled with thoughts of loneliness and my disparity from the rest of my cohort. Unbeknown back then, it wasn't just race that drove my divergence from the crowds, school-yard games and parties, but something more intrinsic, covert yet ever present in my life.

Active Mischaracterisations of the Legal Archetype

It is hard to say that popular media portrayal of law school and the legal profession is anything but an extrovert's playground. From the moot courts to the commanding litigators that march into courtrooms or boardrooms, the lexicon of lawyers follows a portrayal of confidence, charisma and outward determination. I am reminded of the Harvey Specters of the legal profession – the archetypal gifted child who is able to succeed with little more than a whole lot of guts. The classrooms I have been in, in law and otherwise, also overwhelmingly favour and perceive intelligence with those with more extroverted characteristics. Even top-tier law firms are increasingly using psychometric tests when it comes to clerkship and graduate recruitment to weed out 'the wrong personality' by assessing numerical, verbal and abstract reasoning.

My socially conservative behaviour was likely however, not only to be a product of my family and upbringing – but rather, consistent with social cognitive theory, it was likely also a product of my personality.^[2] Although I didn't come to terms with it until recently, I was and still am, more of an introvert. The dichotomy of an 'introvert' and 'extrovert' was first coined by 20th century psychologist Carl Jung, who forwarded more or less, the idea that extroverted individuals are positive thinkers whereas the

introverted thinkers possess more noticeable 'negative manifestations'.^[3] More recently, prolific Harvard lawyer, and award winning introvert Susan Cain, distinguished introverts and extroverts in her reflective novel *Quiet*, as a question of 'how you respond to stimulation' whereby introverts preferred 'low stimulation environments'.^[4]

Cain has since shed light and debunked society's bias towards extroverted individuals.^[5] Rather, Cain views that introversion can be powerful: facilitative of creativity, persistence and more often cause driven.^[6] The reality is that the majority of law students and lawyers are introverts or at least lie more so in that side of the spectrum. A study by the Wisnik Career Enterprises based on New York City, found that up to 60% of the legal profession can be said to be more aligned with being an introvert, in accordance with the Myers Briggs personality test.^[7]

Introversion – More Than Merely Loneliness

Yet, there is a lot more to being an introvert than merely the likelihood for low class participation marks and being ousted as a non-participant in social events. As a study in 2015 from the University of Queensland has shown, it was discovered that the leading cause of depression in law school was feeling socially isolated amongst other law students, followed by the lack of social connectedness in the law school.^[8] On the contrary, extroverts have been considered to be more successful in legal practice and find more satisfaction in their work.^[9]

Within the legal profession, it is well documented the concerns of compromising one's capacity to ascend to higher ranks if lawyers are seen to open up to their mental wellbeing.^[10] More recently, the suicides of Magistrate Dwyer and Myall in Victoria remind us of the harrowing and tokenised perception of the legal profession as filling the role of emotionally devoid machines completing 'intellectual exercises with no place for feelings', and its subsequent impact on the wellbeing of lawyers.^[11] This is the case from the top to the bottom, with paralegals and administrative support staff often bearing the 'emotional labour' of legal work by forming pillars of stability to lawyers, witnesses and clients.^[12]

Therein lies the problem and where reality nightmarishly intertwines with media constructs of the trope of the legal profession to produce a corrosive environment for aspiring lawyers. It is a system which many of us are seemingly set out to fail

from the beginning. Given the prevalence of introverts in law schools and firms throughout the country, it appears intuitive that greater discussion of the realities of the legal profession are made clear through a form of systematic education. Some progressive law schools in this area, such as Bond University, have already introduced first year law units that focus on mischaracterisation of law students and dealing with challenges to mental wellbeing in law school and beyond.^[13]

Inherent Incongruence and the Position of Silent Majority

Fitting into the law school trope is not the be all, end all – if there is one at all. In many regards, Sydney Law School are far from an inclusive place which is facilitative of the learning for all, but also being simply a comforting environment to be in. Notwithstanding this, it is perhaps more advisable that labelling is cautioned in general. Humans are complex, and if we are to align to anything, we are moreso ambiverts – vibrant and chatty when it calls for it and more reclusive and quiet in other moments.^[14]

As for the psychometric tests, it would be presumptuous to view them only in a negative light, with the rationale for organisations is simply that they are seeking balanced, rational and otherwise finding ways to best empower employees, being at the very least prima facie reasonable. It is perhaps too simplistic to say that introverts are cordoned off to one side while others rise to their clerkships and careerist dreams. After all, significant research has been put into the complexity of dark traits that often manifest from introversion, concluding that extreme levels any side of the spectrum fosters negative outcomes.^[15]

Where to Now?

Through this, I do not blame my ethnic background for influencing my upbringing. There is a different culture. One that is more powerful, institutionally-ingrained and entrenched that deserves our attention. After all, the proliferation of mental health concerns in law schools and the legal profession are product of a mixture of external factors and internal characteristics. Social connectedness will be instrumental to the development of a more accommodating and progressive Law School, with research showing students who perceive themselves as having social support are more optimistic and better able to cope with stress.^[16] The premium that law school culture places on extrinsic rewards such as mooting and careerism has often displaced the opportunities to explore avenues to nurture the ethical and personal development of students. There must be more to the law school experience than abstract career prospects and perceptions of success that perpetuates the adversarial system that enshrouds the law students. We are a quiet profession, but our submission to social barriers and divisive labels should not compromise our clear capacity to move together as law students. ■

SCREWED, BLUED AND TATTOOED:

INDIGENOUS AUSTRALIANS WITH MENTAL OR COGNITIVE
IMPAIRMENTS IN THE CRIMINAL JUSTICE SYSTEM

Anonymous

"The destiny of human rights is in the hands of all our citizens in all our communities" ^[1]

This eloquent vision echoed by Eleanor Roosevelt in the aftermath of the global calamity almost three generations ago remains etched in the moral consciousness of many. However, the current treatment of Indigenous Australians suffering with mental or cognitive impairments in the criminal justice system does not reflect the principles espoused by the Universal Declaration of Human Rights. A new tragedy is brewing under the supposed cosmopolitan ethos of modern multicultural Australia, undercutting fundamental principles of justice. The quintessential Australian ideal of the 'fair go' has been eroded by the discriminatory approaches of the criminal justice system towards Indigenous Australians with mental health problems. The single shade of blue, characteristic of uniforms donned by police, court officers, nurses and prison guards symbolise the collective harm inflicted by the criminal justice system upon Indigenous Australians with mental and cognitive impairments.

Nowhere is the burden faced by Indigenous Australians heavier than the first point of contact with police. Indigenous Australians with mental and

cognitive impairments encounter police approximately two years earlier than non-indigenous Australians^[2]. A lack of medical training means police often misinterpret mental and cognitive impairments in Indigenous Australians as the effects of drugs and alcohol.^[3] This has the effect of transforming interactions with police into criminal encounters. In particular, the inability of law enforcement officials to adequately address mental and cognitive impairments within Indigenous Australians has continued to have a disproportionate impact on Indigenous youth^[4]. While the *Young Offenders Act 1997* (NSW) resulted in a substantial fall in Indigenous first offenders being taken to court, excessive police discretion is further augmented by the deficiencies in training and resources^[5]. Increasingly, comprehensive training programs on the specific vulnerabilities of Indigenous Australians with mental and cognitive impairments will assist in mitigating police encounters.

The persistent scourge of judicial interactions with Indigenous Australians suffering from mental and cognitive impairments reflects a continuation of

the discriminatory colonial vice entrenched within the modern criminal justice system. It has been a longstanding legal principle that due to their impaired capacity, individuals suffering from psychiatric illness shall not be subject to criminalisation^[6]. The provision of effective diversionary programs for individuals with mental and cognitive impairments is enshrined within sections 32 and 33 of the *Mental Health (Forensic Provisions) Act 1990 (NSW)*^[7]. However, despite the legal recognition of mental and cognitive impairments, Indigenous Australians are far less likely than their non-Indigenous counterparts to receive the option to enter into a diversionary program^[8]. The propensity of the judiciary to incarcerate Indigenous Australians with mental and cognitive impairments is primarily attributed to the underlying lack of understanding about Indigenous mental health issues. While the formal tenors of the law have recognised the gravity of mental health, the inability of judicial discretion to adequately account for mental and cognitive impairments within Indigenous Australians is a testament to the still evolving attitudes towards both Indigenous Australians and mental health.

The consequences of incognisant police and judicial discretion are manifested in the indefinite sentencing of Indigenous Australians suffering from mental and cognitive impairments. Psychiatric reports are frequently used to determine whether accused Indigenous Australians are fit to stand trial. This however results in the court issuing a custody order thereby remanding the accused into a form of unofficial incarceration. While the majority of non-Indigenous offenders receive suspended sentences or fines, Indigenous Australians suffering from mental and cognitive impairments are detained indefinitely^[9]. Indefinite detention has the additional detrimental impact of aggravating psychiatric illnesses causing Indigenous detainees to resort to extreme measures including self-harm, violence and suicide. It is arguable that the indefinite detention of Indigenous Australians contravenes the Universal Declaration of Human Rights. The provision of non-discrimination and equality before the law enshrined in Article 2 and 7 respectfully is under serious threat by the inequitable treatment of mental and cognitive impairments within the Indigenous community. Increasingly, fairer police and judicial responses necessitate the adoption of common principles of human rights throughout the criminal justice system.

Strategies to improve the experience of Indigenous Australians with mental and cognitive impairments will require a concerted effort from police, the judiciary and citizens at large. The current small range of treatment options (Rushworth, 2011) has precipitated a culture of recidivism and self-harm, thereby obviating any possible change for successful rehabilitation pathways. The complex needs of Indigenous Australians with mental and cognitive impairments often 'cross the boundaries of many services yet fall outside the remit of any one service'^[10]. These needs should be addressed by better coordination between different entities within the criminal justice system and non-criminal justice services. Strategies should aim to include local community groups and mental healthcare advocates, to produce a comprehensive policy that properly redresses the plight Indigenous Australians face. Specific provision should be made for vulnerable youth in detention suffering from mental and cognitive impairments. The creation of appropriate strategies will require the cooperate of the community, law enforcement and the judiciary to prioritise the mental health and wellbeing of Indigenous Australians.

The vision laid down seventy years ago granting full and unconditional human rights to all individuals represents the pinnacle of ideals for equality and justice. However, the strength of the vision is encapsulated in its ability to adapt to the needs and concerns of the common citizen. Placing the mental health and wellbeing of Indigenous Australians at among the forefront of the criminal justice law reform and national consciousness will enable Australia to fulfil the hopes and aspirations of reconciliation, thereby fostering a more inclusive nation. ■

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Introversion in the Law: A Spiral of Silence

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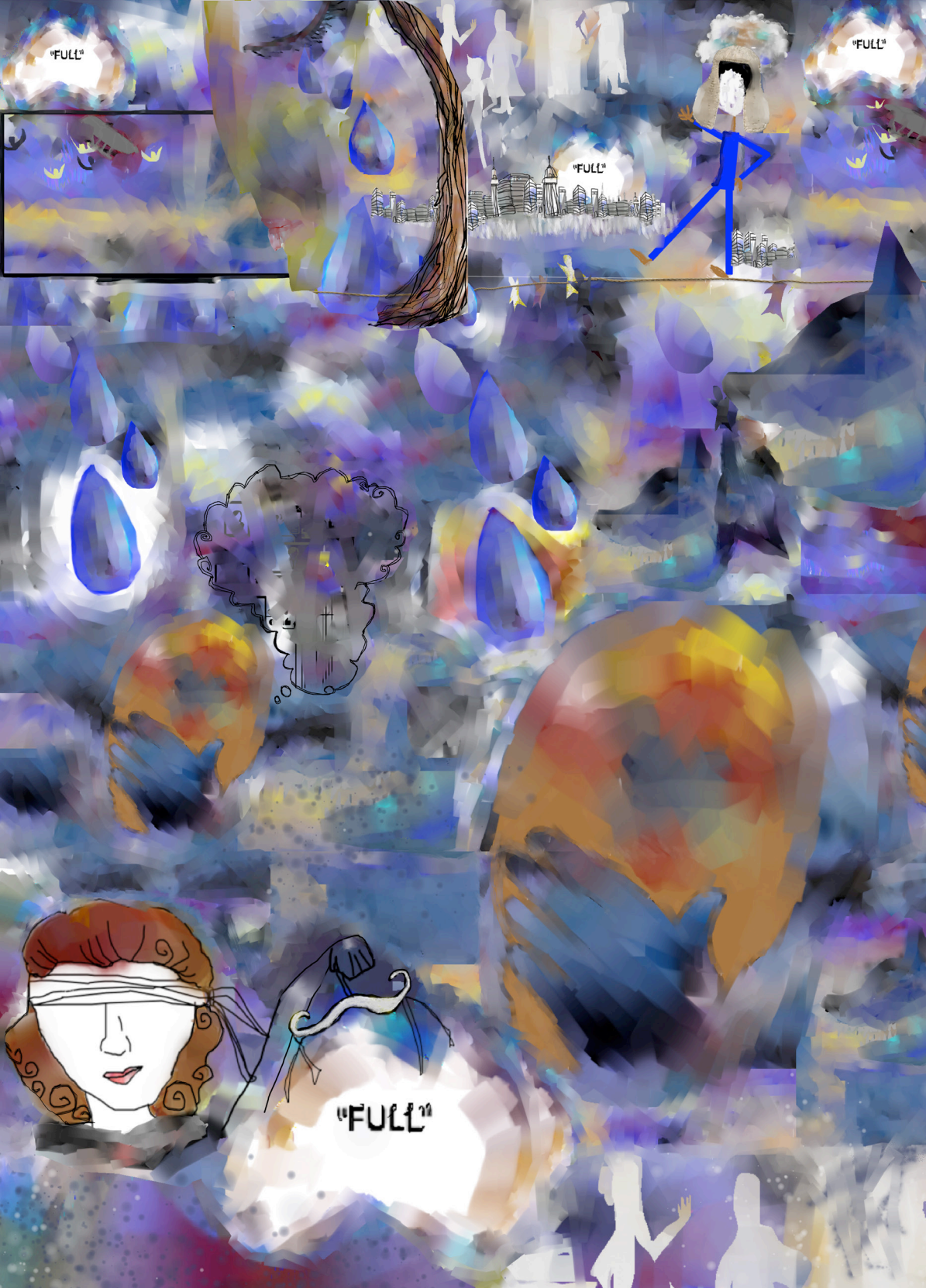
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"FULL"

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