

EMPLOYING ART IN THE FIGHT FOR GENDER EQUALITY IN AOTEAROA NEW ZEALAND'S LEGAL PROFESSION

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Since the #MeToo movement hit Aotearoa New Zealand's legal profession in early 2018 with revelations of sexual harassment and sexually inappropriate behaviour at Russell McVeagh, there has been a raft of initiatives to address gender inequality in the law. Most have involved important changes to the rules, policies and codes that govern the profession. In the autumn of 2022, however, Judith Milner opened up a new site for questioning and challenging ideas of gender and the legal profession. She exhibited 16 portraits of female lawyers, from a diverse range of backgrounds, in an exhibition entitled "Raising the Bar". This article explores the ways that art influences the profession and the significance of Milner's work for efforts to address gender inequality in the law. It argues that both the substance of the portraits as well as the portraits' composition, palette, size and shape assist in shifting deeply held assumptions about the role and position of women in the law as well as what the practice of law itself involves.

I INTRODUCTION

On Valentine's Day 2018, Newsroom published the story "The summer interns and the law firm".¹ The story detailed how female summer clerks at Russell McVeagh had experienced multiple incidents of harassment and "sexually inappropriate behaviour" while clerking in the firm's Wellington office.² Had the story been published six months earlier, I am not sure what its impact would have been. I would like to think that it would have generated outrage, been seen as symptomatic of deep structural and cultural problems in the

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1 Melanie Reid and Sasha Borissenko "The summer interns and the law firm" (14 February 2018) Newsroom <www.newsroom.co.nz>.

2 At the time Newsroom did not publish any further details in a bid to protect the women's privacy. It subsequently came to light that five female summer clerks had been sexually harassed over a three-week period in the 2015–2016 summer: Margaret Bazley *Independent Review of Russell McVeagh: March – June 2018* (5 July 2018) at 3.

legal profession, and ignited a series of investigations and reform proposals. However, as all too many lawyers know, the profession has historically been highly skilled at diverting attention from such incidents and ensuring they garner little attention beyond gossip at Friday night drinks.

As it was, the story landed four months after the #MeToo movement went viral and titans of Hollywood, media empires and other institutions were being publicly named on social media platforms and prosecuted in court rooms across the world for rape, sexual assault, and sexual harassment.³ Consequently, there was far greater empathy for those who had been subject to sexual harassment and assault than ever before and a newfound unwillingness to let such behaviour be swept aside. This context propelled the Newsroom story to the headlines of other media outlets in the country where it generated deep public concern, encouraged others to share their experiences of sexual discrimination, harassment and assault in the legal profession,⁴ and galvanised a series of efforts to alter problematic systems and cultures in the legal profession. Chief among these efforts were a report by Dame Margaret Bazley into the incidents that had occurred at Russell McVeagh as well as “the firm’s framework of policies, standards and systems, and its culture”;⁵ multiple initiatives by the New Zealand Law Society to tackle sexual harassment, bullying, discrimination and broader cultural issues in the profession;⁶ and a report by three relatively young lawyers, Allannah Colley, Ana Lenard and Bridget McLay, entitled “Purea Nei: Changing the Culture of the Legal Profession”.⁷ Themes that ran across these projects included calls and initiatives to address sexual discrimination, harassment and bullying policies, tackle excessive and inflexible work hours, alter codes of conduct, review the role of alcohol in legal practice, implement

3 It is important to acknowledge that the concept of #MeToo first emerged in 2006 when Tarana Burke used Myspace to publicise issues of sexual assault and harassment. It was not until 2017, however, that the movement became a global phenomenon. See for example Maya Salam “One Year After #MeToo, Examining a Collective Awakening” *New York Times* (online ed, 5 October 2018).

4 A key platform that enabled this to happen in a safe environment was Zoë Lawton’s #metoo blog: Zoë Lawton “#metoo blog” (28 February 2018 – 6 April 2018) <www.zoelawton.com>.

5 Bazley, above n 2, at 3.

6 See New Zealand Law Society *Report of The New Zealand Law Society Working Group: To enable better reporting, prevention, detection, and support in respect of sexual harassment, bullying, discrimination and other inappropriate workplace behaviour within the legal profession* (8 December 2018) [Report of the New Zealand Law Society Working Group]; and New Zealand Law Society “Law Society Taskforce focused on culture change” (statement, 25 September 2018).

7 Allannah Colley, Ana Lenard and Bridget McLay “Purea Nei: Changing the Culture of the Legal Profession” [2019] NZLFR 17.

new forms of training, and consider what values and cultures should underpin the profession.⁸

The work that was undertaken in the aftermath of the Newsroom story was significant and while it would be too much to say that it transformed the profession, important progress was made.⁹ There was, however, one aspect of the profession that received little attention from those seeking to address women's experiences in the law: the aesthetic life of the legal profession. In many ways this is understandable. As lawyers we are trained to focus on words and are adept at scrutinising and recrafting policies, rules and codes; we have not been taught to pay attention to the influence that architecture, light (or lack of it), furniture, colour schemes and art might have on the profession. And yet aesthetics are central to understanding how we experience the law, relate to one another and view our work; they shape our aspirations and the cultures we work within.¹⁰

One particular aspect of law's aesthetic life that has an important role in shaping how lawyers experience and think about the profession are portraits. There is a long tradition of portraiture in the law. For centuries, it has been common for the walls of courts, law schools and law firms to be adorned with images of judges, law deans, law society presidents and other legal luminaries.¹¹ Given that Aotearoa New Zealand did not get its first female judge until 1975¹² nor its first female law dean until 1990,¹³ and that today, despite the majority of law graduates being female, the most senior roles in the profession are still

8 See Bazley, above n 2; Colley, Lenard and McLay, above n 7; and Report of the New Zealand Law Society Working Group, above n 6.

9 For example, new rules were enacted to govern harassment and bullying in the legal profession in July 2021: New Zealand Law Society "New rules governing lawyers' behaviour from 1 July" (statement, 1 April 2021).

10 There has been some very good work done on the influence that the architecture of certain legal spaces, such as court rooms, has on different aspects of legal life (see Kirsty Duncanson and Emma Henderson (eds) *Courthouse Architecture, Design and Social Justice* (Routledge, London, 2021)) as well as the connection between art and law (see Leslie J Moran "Judging pictures: A case study of portraits of the Chief Justices, Supreme Court of New South Wales" (2009) 5 Int JLC 295; and Nikki GoddenRasul "Portraits of women of the law: re-envisioning gender, law and the legal professions in law schools" (2019) 39 LS 415). However, there is not a broad appreciation in the legal profession of the significance of aesthetics.

11 Legal portraiture first began in the 16th century: Godden-Rasul, above n 10, at 418.

12 Dame Augusta Wallace was the first female judge in Aotearoa New Zealand. She was appointed to the District Court in 1976 and served for 18 years: Ministry of Justice "Justice celebrates 125 Years of women's suffrage" (1 October 2018) <www.justice.govt.nz>.

13 Margaret Wilson was the first female law dean in Aotearoa New Zealand. She was Dean of the University of Waikato's Faculty of Law from 1990 to 1994: The University of Waikato "History of Te Piringa – Faculty of Law" <www.waikato.ac.nz>.

primarily occupied by men,¹⁴ these portraits have overwhelmingly been of men. What is more, in light of the systemic racism and white privilege that pervades the legal profession, the preponderance of portraits have been of Pākehā men.

Having images of Pākehā men watching over legal settings has myriad effects on the profession. It indicates who is deemed acceptable, successful and worthy of commemoration and in doing so suggests what qualities others must embody to achieve comparable approval and acclaim.¹⁵ The composition of the portraits also sends powerful messages. There is an extraordinary homogeneity in the way that portraits of the legal profession have been constructed.¹⁶ Most have a very limited palette with sombre tones.¹⁷ Most depict the lawyer, judge or dean dressed in professional attire (a suit for lawyers, judicial robes for judges and either a suit or academic attire for deans) with a bland expression affixed on their face.¹⁸ The backgrounds are dark and devoid of artefacts or any other indicia of the sitters' inner lives, whakapapa, familial connections or personal interests.¹⁹ These compositional features arise from the fact that legal portraits are designed to "play a double role in identity formation": they depict the "identity of the individual sitter" as well as "fashioning ... the identity of the [legal] institution" for which the sitter works.²⁰ The clear message being transmitted is that the legal realm is one that is masculine and sombre, and that values neutrality, objectivity, impartiality and consistency.²¹ It follows that there is no room for individuality, creativity, youth, emotion, uncertainty, messiness or subjectivity.

While lawyers' training leaves them ill-equipped to appreciate the significance of the portraits that surround their workplaces, there is little doubt that the portraits emit subliminal messages that shape the standards, cultures and values of the profession.²² I was thus excited, and slightly nervous, to learn in early 2022 that Judith Milner would be holding an exhibition

14 James Barnett, Marianne Burt and Navneeth Nair "Snapshot of the Profession 2021" *LawTalk* (Issue 948, Wellington, 6 December 2021) at 39 and 43; and Geoff Adlam "Snapshot of the Profession 2020" *LawTalk* (Issue 940, Wellington, 12 June 2020) at 30.

15 See Godden-Rasul, above n 10, at 417; and Alexandra Richards QC "The Unveiling of the Images of Women in the Law Portrait of Chief Justice Warren" (2006) 138 Vic BN 48 at 49.

16 Godden-Rasul, above n 10, at 419.

17 Indeed, it is not uncommon for portraits to be done in black and white.

18 Moran, above n 10, at 299; and Godden-Rasul, above n 10, at 419.

19 Moran, above n 10, at 299.

20 At 298.

21 Godden-Rasul, above n 10, at 419.

22 At 417–420.

entitled “Raising the Bar” at Studio One Toi Tū in Ponsonby where she would display the portraits of “16 inspirational New Zealand women, from diverse backgrounds, working in the field of law”.²³ The excitement came from a hope that the exhibition might challenge the ideas and messages that many existing legal portraits convey and in so doing, help contribute to efforts for cultural change in the profession. The slight nervousness I felt lay in a concern that the portraits might depict female lawyers but otherwise adhere to the traditions of legal portraiture with limited palettes, dark empty backgrounds, and no insights into the individuality or personality of those portrayed. I worried that relatively little would be achieved by simply substituting women for men — it would suggest that women could kick it in a man’s world; but for real change to occur in the profession much more is needed. Women have been surviving in the male dominated world of the law for over a century;²⁴ what we need to end harassment, assault and discrimination, and to achieve true gender and racial equality is to transform the foundations of the profession so that they accommodate women’s lives and include ways of being that are traditionally associated with the feminine.²⁵

I need not have worried. When I walked into the exhibition at Studio One Toi Tū on a warm autumn day in late April, I was greeted by a series of portraits that felt very different to those I had seen in the law schools and courts during my 20 years in the law. Instead of imposing, dark, homogenous canvasses, I was welcomed by 16 small, colourful images. The images portrayed Māori, Pasifika, Asian, Kurdish and Pākehā women of varying ages, many of whom were accompanied by objects of personal significance, patterns, symbols and landscapes.²⁶ They also came from a range of different areas of the law;

23 Sait Akkirman “Studio One Toi Tū – Judith Milner – Raising the Bar – 06/04/2022” (2021) *Arts Diary* <www.artsdiary.co.nz>.

24 The first female lawyer — Ethel Benjamin — was admitted to Aotearoa New Zealand bar in 1897: Ministry of Justice, above n 12.

25 This reference to splitting “ways of being” into masculine and feminine relates to traditional ideas that masculine attributes include independence, impartiality, objectivity and rational thought whereas feminine attributes include emotions, subjectivity, partiality, caring and passivity. These terms are not meant to suggest that all men embody the first set of attributes and all women the second set. All humans, whatever their gender identity (male, female, transgender, non-binary), can possess and exercise all these characteristics. What is important is that these attributes are all recognised and provided space. Historically the law has shut out and subjugated the so-called feminine attributes.

26 The women depicted were Elizabeth Chan, Sharon Chandra, Allannah Colley, Steph Dryberg, Tiana Epati, Rez Gardi, Ana Lenard, Jacqueline Lethbridge, Sabrina Muck, Khylee Quince, Sarah Salmond-Elliott, Indiana Shewen, Stacey Shortall, Tupe Solomon-Tanoa’i, Litia Tuiburelevu and Juliet Tainui-Hernandez.

women from the public service, private law firms, criminal law practice, the bar, community legal centres, academia, civil society and law societies were captured.²⁷ There was a clear message that the law, and the lawyers who work within it, could embody very different ideas and approaches to those traditionally associated with the profession.

In this piece, I explore how *Raising the Bar* provided a crucial counter to traditional legal portraits and consider the ways it might help contribute to shifts in Aotearoa New Zealand's legal profession. I begin in Part II by setting out what inspired and motivated Milner to create the exhibition. I then turn in Part III to analyse the significance of the exhibition in detail before offering some concluding reflections in Part IV. My analysis throughout the piece is greatly enhanced by insights Milner generously shared with me about her work and the motivations behind it over coffee in her local Northcote café a few weeks after I had seen the exhibition.²⁸

II THE GENESIS OF RAISING THE BAR

The fact the portraits in *Raising the Bar* looked and felt very different to those that line the corridors of many legal institutions was no mistake. Milner consciously set out in the exhibition to capture women from a range of racial backgrounds, stages of life and parts of the profession. She wanted to create visible role models for young women that demonstrated that there was an array of interesting and engaging paths in the legal world that were open to women law graduates no matter who they were or what their personal history was.²⁹

Her desire to showcase different opportunities in the law for women grew out of her own experiences in the law. When she finished school, Milner was unsure what she wanted to do with her life. She had loved art at secondary school, but her family and teachers were keen for her to follow “a more

27 Interestingly, the one notable absence in the line-up was judges. Milner did not purposefully exclude judges from the project and in fact did approach a female judge, but she declined to take part.

28 I am very grateful to Judith Milner for taking the time to be interviewed about her work. In accordance with rule 3.1.1 of Waipapa Taumata Rau – University of Auckland's Guiding Principles for Conducting Research with Human Participants, I did not need to seek ethics approval to conduct this interview as this was an “interview with a single participant who [wa]s asked to discuss his or her area of expertise and who [could] reasonably be regarded as having sufficient seniority and experience to be aware of, and protect, his or her own interests with regard to the research and its publication”: University of Auckland *Guiding Principles for Conducting Research with Human Participants* (14 March 2022) at 6. In order to make it clear when the ideas in this piece have come from Milner, I have included a footnote wherever I am referring to thoughts and insights she shared with me.

29 Interview with Judith Milner, Artist (Anna Hood, Auckland, 19 May 2022).

academic path” at university.³⁰ Consequently, she fell into the degree that many high achieving school leavers who are not sure exactly what career they want to pursue find themselves in: a BA/LLB.³¹ By the time she graduated from university she still did not have a clear idea of what she wanted to do but she had been accepted into Russell McVeagh’s graduate programme and so headed off to try her hand at commercial law in Shortland Street. Her time there was “pretty unhappy”.³² There were only two female partners and little concept of work-life balance or flexible working conditions.³³ She did not have a mentor and struggled to find anyone in the firm whose career she wanted to emulate.³⁴ Further, reflecting back on the culture of the big firms in the early 2000s, Milner spoke of how difficult it was, as a young graduate holding a much sought-after position in a highly competitive environment, to speak up against troubling aspects of the culture.³⁵ Disillusioned, she stuck it out for three years before heading to the United Kingdom.³⁶

After leaving New Zealand, Milner put her experience at Russell McVeagh “to the side and moved on”.³⁷ She took on a number of different legal roles over the course of the next decade, including some in-house lawyer positions where the environment was very different to what it had been at Russell McVeagh. She found good role models and was supported to progress into senior roles. It was not until Russell McVeagh hit the headlines in 2018 (by which stage she was settled back in Auckland with her own family) that she had cause to revisit her time there.³⁸ She was particularly struck by Dame Margaret’s report into the culture at Russell McVeagh. Although the report was written 13 years after Milner left the firm, the story it told was all too familiar. Many of the issues Dame Margaret highlighted replicated what Milner had experienced during her three years at the firm.³⁹ Milner felt the report “validated everything

30 Milner Interview, above n 29.

31 Milner did not completely leave art behind. She studied art history alongside psychology in her arts degree: Milner Interview, above n 29.

32 Milner Interview, above n 29.

33 Milner Interview, above n 29.

34 Milner Interview, above n 29.

35 Milner Interview, above n 29; and subsequent emails from Judith Milner (Artist) to Anna Hood (Academic) regarding the Raising the Bar Exhibition at Studio One Toi Tū (26 June 2022).

36 In the United Kingdom, Milner worked briefly for a law firm before moving to an in-house role at Royal Mail, which was a much more positive experience: Milner Interview, above n 29.

37 Milner Interview, above n 29.

38 Milner Interview, above n 29.

39 Milner Interview, above n 29.

for me” and explained how “it felt good to have something out in the world about what I had experienced”.⁴⁰ But she remained concerned that female law students and graduates were still having to face the same challenges she had. She was especially conscious of the additional difficulties that Māori and Pasifika women were likely to face given the existence of racial barriers in the profession.⁴¹

Reflecting on all of this, Milner thought about how much of a difference it would have made to have some strong female role models when she left law school and how she would like to be able to make young women entering the law today aware of the wonderful role models that exist in the law and the many paths they can take.⁴² As it happened, Milner had returned to art in her thirties and developed a passion and talent for portraiture.⁴³ Bringing together her desire to lift up female role models and her artistic abilities, Milner began to work on the Raising the Bar project.⁴⁴

40 Milner Interview, above n 29.

41 Milner Interview, above n 29.

42 Milner Interview, above n 29.

43 She was originally inspired to consider portraiture during visits to the National Portrait Museum in London. In her words, she “became entranced by portraits” because they captured so much about people she had never met and the society they came from. She took portrait classes at night while living in Melbourne and then enrolled for three years of classes at the Brown School of Art in Grey Lynn on her return to Auckland: Milner Interview, above n 29.

44 Throughout the project, Milner showed great respect for the women she was portraying, their lives and their preferences. At the outset, she sought permission from each woman to be painted and, conscious that all the women led busy lives, requested they send her photographs of themselves from which she could work rather than requiring them to sit for her in person.

THE PORTRAITS

The following images are six of the portraits from Judith Milner's "Raising the Bar" exhibition. They are reproduced here with the artist's permission and accompanied by the original blurbs from the exhibition.



Litia Tuiburelevu

Litia (she/her) is a Research Fellow at the University of Auckland's Faculty of Law, researching Pacific Peoples' Experience of New Zealand's Criminal Justice System.

"Be bold, creative and curious. Your life outside the law is more important than the work you do. If you come to acquire power, wealth and resources then redistribute them equitably. Don't take yourself too seriously!"



Juliet Tainui-Hernandez

Juliet (she/her) is of Ngāi Tahu and Whakatōhea descent and was appointed in 2020 as the Reserve Bank of New Zealand’s Assistant Governor and General Manager of Transformation, Innovation, People and Culture. In this role, she oversees its bank-wide transformation programme to ensure the Bank lives its full purpose in enabling the economic prosperity and well-being of all New Zealanders – Toitū te Ōhanga, Toitū te Oranga. This includes bringing in more diverse viewpoints, helping to seep in Te Ao Māori to bring to life the partnership that forms the bicultural basis of our modern country and assisting Te Pūtea Matua/RBNZ in supporting financial and economic inclusion. Juliet is also a non-executive director of Ngāi Tahu holdings.

Juliet is depicted standing in front of her wharenuī, Karaweko, at her Ngāi Tahu home base of Ōnuku, where her ancestors signed Te Tiriti in the South Island. All Ngāi Tahu can trace ancestry to the tūpuna represented in this wharenuī, which was brought to life by a rōpū led by her godfather Pere Tainui, with the contributions and aroha of many researchers, whakapapa experts, carvers, weavers and artists.

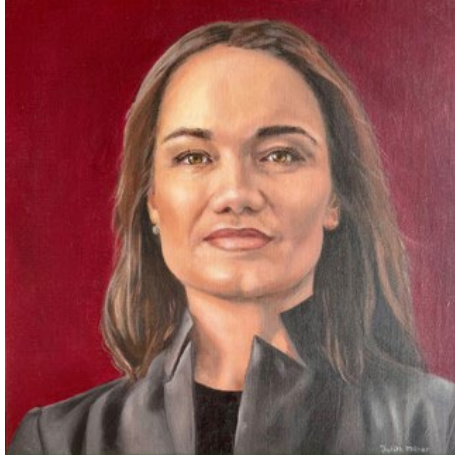
The carved pou to her left is an amo of the wharenuī, and one of her ancestors, Tākatahara. The church is Te Whare Karakia o Ōnuku, which was opened in 1878 as the first non-denominational church in New Zealand. It was intended as a place of worship for both Māori and Pākehā, to draw the communities together.



Sabrina Muck

Sabrina (she/her) is the Supervising Lawyer at the Waitematā Community Law Centre. WCLC provides free legal advice and social support to low-income clients in West and North Auckland. Sabrina is passionate about access to justice and is driven by her belief that everybody who engages with WCLC, no matter their situation, deserves to receive quality advice and care.

“Being a lawyer should not shape who you are. Instead, let who you are shape the kind of lawyer you want to be.”



Tiana Epati

Gisborne-based lawyer, Tiana (she/her) was the first Pasifika president of the New Zealand Law Society (April 2019 – April 2022). She was also the first President to give birth with her third child arriving in November 2020. In 2019, Tiana was named Lawyer of the Year by legal website LawFuel for the positive impact her elevation to the role of President has had on the legal profession and bringing a “fresh voice” as a leadership figure.

Tiana was admitted as a barrister and solicitor in 2000 and for many years was a Crown prosecutor in Auckland and Wellington before moving to Gisborne and becoming a criminal defence litigator.



Tupe Solomon-Tanoa'i

After graduating from the University of Auckland with a BA/LLB(Hons), Tupe (she/her) pursued a successful career as a diplomat and civil servant before returning to the legal community. She is currently the Chief Philanthropic Officer at the Michael and Suzanne Borrin Foundation, which funds legal research, education and scholarship and is working towards an Aotearoa New Zealand that is just, inclusive, tolerant and free.

The Samoan-Fijian Kiwi has spoken frequently about the unconscious bias she has faced in her working life and is passionate about advocating for a more inclusive society. In 2020 she won the New Zealand Women of Influence Award for Diversity and in 2021, she was named one of New Zealand's most Influential Lawyers by NZ Lawyer Magazine in the category of Human Rights, Advocacy and Criminal Justice.

The designs in the background of Tupe's portrait came from her tuālima (hand tattoo) that she received for her 40th birthday. It represents her life long journey to be comfortable in her own skin and wearing a physical manifestation of her culture in a highly visible place.



Ana Lenard

Ana [she/her], whose family came to New Zealand from Yugoslavia in 1994, graduated from the University of Auckland with a LLB(Hons) and BSc(Psychology, Geography) and attended Columbia Law School as a Fulbright and Ethel Benjamin Scholar, graduating top of her LLM class. While at Auckland Law School in 2016 she co-founded the New Zealand Women's Law Journal – Te Aho Kawe Kaupapa Ture a ngā Wāhine with Allanah Colley.

Ana is a dispute resolution lawyer specialising in civil, commercial and regulatory litigation, and a legal academic researching and teaching dispute resolution, professional responsibility, social justice in the law / law and society. Ana is an active member of the Me Too movement in the legal profession, speaking in national and legal media, researching culture in the legal profession, and advocating for progressive change that aims to realise full inclusion in the profession. She is currently a PhD Candidate at the University of New South Wales studying how workers' rights can be advanced through employment mediation in Aotearoa.

The unifying thread in Ana's work is identifying opportunities for progressive change. As an immigrant to New Zealand having escaped the perils of life in a war-torn and post-conflict society, she feels a responsibility to honour the privilege of the life she has had in Aotearoa by trying to leave the world a little bit better than she found it.

III THE PORTRAITS UP CLOSE

There is no question that the 16 portraits that resulted from the project were an effective mechanism to make visible a diverse range of female role models for law students and new law graduates, as Milner had hoped. Creating role models is a significant contribution and alone would have warranted the exhibition being lauded as a success. However, as suggested in the Introduction to this piece, my sense is that the exhibition's significance reached beyond the creation of role models for those at the start of their careers. The women that Milner included in the project and the ways that she portrayed them also challenged the conventions of legal portraiture, the way women have often been treated in the legal profession and gendered ideas about what matters in the practice of law.

In this Part, I explore and unpack both the ways the project created role models for young lawyers and the ways that it challenged a number of staid ideas about women and the law. I do this first in Part III(A) by considering the significance of Milner's choice of subjects and then in Part III(B) by looking at the meaning that can be gleaned from the way Milner constructed the portraits.

A The Significance of the Women Portrayed in Raising the Bar

Milner was conscious that there were many interesting and inspirational women she could have profiled and celebrated in Raising the Bar. She settled on the 16 that appeared in the exhibition because they came from a variety of professional, age and racial backgrounds and because they included both well-known and less prominent women.⁴⁵ She was clear that she did not want everyone in the exhibition to be a household name as she felt it important to ensure that people who might otherwise not get a profile were recognised for their contributions.⁴⁶

In many respects, the fact that Milner included a wide range of women in her exhibition should be unremarkable — the profession is made up of women from many different walks of life⁴⁷ and any project profiling women in the law should engage with the many different stories and experiences that

⁴⁵ Milner Interview, above n 29.

⁴⁶ Milner Interview, above n 29.

⁴⁷ Although not all walks of life are equally or equitably represented in the profession. There are, for example, far fewer Māori and Pacific lawyers than Pākehā lawyers. Further, Māori and Pacific people make up 24.6 per cent of the population of Aotearoa New Zealand but only 10.2 per cent of the legal profession (Māori lawyers make up 6.9 per cent of the profession and Pacific lawyers make up just 3.3 per cent of the profession): Snapshot of the Profession 2021, above n 14, at 36 and 38.

exist. However, in the context of legal portraiture and the legal profession more generally, Milner's focus on diversity was quietly radical and very significant.

The decision to include women who did not have a significant public profile and/or were only in the early stages of their career was a novel one. The legal profession is deeply hierarchical: law schools, law firms, the bar and the courts are structured in ways that give great power to those at the top and relatively little authority to those at lower levels. Traditionally, it has only been those at the apex of these hierarchies who have been deemed worthy of being captured in portraits and displayed on the walls of legal institutions.⁴⁸ This practice has worked to reinforce the power and significance of those individuals. While not intended to generate problems, emphasising the value and importance of those at the supposed top of the profession can unwittingly contribute to the conditions where sexual discrimination and harassment can thrive. As the reports that were issued in the wake of the 2018 revelations made clear, when a small group of people have significant control over others' work hours, pay and job security as well as the culture in particular legal settings, and those working under them have little autonomy or voice, it is very easy for problematic practices to emerge, and extremely difficult to speak up when discrimination, harassment or assault occurs.⁴⁹ By capturing women who work lower down the legal hierarchies, Milner's portraits challenged the notion that we should only see those in traditionally high-ranking legal offices as important and powerful, and insisted that we pay attention to, value and hold in high esteem a broad cross section of those who work in the law.

The inclusion of women from a wide range of sectors within the profession was similarly significant. For the most part, legal portraits have historically tended to focus on judges, deans, partners of corporate law firms and top silks. Those who work in community legal centres, non-governmental organisations (NGOs) and the civil service have not been depicted. The absence of people from these sectors in the profession's portraits operates to devalue these roles and the work done in these spaces, despite these sectors being every bit as

⁴⁸ Godden-Rasul, above n 10, at 417.

⁴⁹ Dame Margaret noted that at Russell McVeagh there was "very significant hierarchy and stark power imbalance between partners (majority men) and juniors (majority women)": Bazley, above n 2, at 47. Allannah Colley, Ana Lenard and Bridget McLay similarly noted that the partnership model was "the source of a number of cultural issues in the profession" and "was widely regarded as concentrating too much power in just a few and failing to provide sufficient checks and balances": Colley, Lenard and McLay, above n 7, at 6 and 22.

important as (and arguably in some instances more important than) those with which traditional portrait subjects have engaged. The failure to capture women from the community, NGO and government spheres also contributes to obscuring these forms of legal work. All too often law students who studied law because of an interest in social justice issues, bemoan the apparent lack of career options available to them outside the corporate law track. Not all of this can be put down to a lack of visual representation in portraits. But, if more people working in this space were captured in portraits, law students would have a broader array of role models and may well feel less boxed into particular career trajectories. Indeed, by placing women such as Sabrina Muck, who works at the Waitemata Community Law Centre, and Tupe Solomon-Tanoa'i, who is the Chief Philanthropic Officer at the Michael and Suzanne Borrin Foundation, alongside those from firms and the bar, Milner's exhibition drew attention to the significance of the work they do and made visible potential pathways for those at the beginning of their careers.

Ensuring Māori, Pacific and Asian lawyers were captured in the portraits was another important aspect of the exhibition. Historically there has been a serious and shameful dearth of Māori, Pacific and Asian women (and men) captured in legal portraits. This lack of representation in portraits is connected to the fact that legal portraits have long been the domain of judges, deans, partners and Queen's Counsel, and structural and individual racism in the profession have blocked, or placed heavy barriers in the path of, Māori, Pacific and Asian lawyers interested in securing these roles in the legal profession.⁵⁰ Just as the exclusion of civil society and government lawyers from legal portraiture devalues those pathways, not having Māori, Pacific and Asian members of the profession represented in the art lining the walls of legal institutions has reinforced the idea (present in other ways in the profession) that these women are unseen and unwelcome. It has created the impression that there is no space for their voices, experiences, concerns, achievements, ideas or views. An exhibition such as *Raising the Bar* that highlights a handful of Māori, Pacific and Asian women lawyers will not alone undo the complex layers of racism that envelop the profession. But what it did help to do was to claim space for Māori, Pacific and Asian women in legal portraits, and state clearly that

50 Of course, structural and individual racism have not just affected the ability of Māori, Pacific and Asian lawyers to get these roles but many others as well.

they belong in the profession and perform important work in the profession through the roles they take on and the work they carry out.

B The Composition of the Portraits

Just as significant as Milner's decision to include women from a range of professional, age and racial backgrounds was the ways that she portrayed the 16 women. As noted in the Introduction, Milner shied away from replicating the features that have historically been found in legal portraits. In so doing, she invited those viewing the works to think about the law and lawyers in ways that differ significantly from traditional conceptions of the field and those that work within it.

Two of the most significant features of the portraits that set them apart from traditional legal portraiture were the fact that the women were depicted in colour and were placed against varied backgrounds. The colour palette shifted in each portrait from pale, muted tones in some to deep green, blue, red and magenta in others. Further, in some of the paintings, the women were accompanied by objects or symbols of significance to them or set against buildings, trees or landscapes. One of the most striking backgrounds was in the portrait of Tupe Solomon-Tanoa'i where designs from the "tuālima (hand tattoo) that she received on her 40th birthday" were depicted.⁵¹ The tuālima "represents [Tupe's] lifelong journey to be comfortable in her own skin and wearing a physical manifestation of her culture in a highly visible place".⁵² Another background that carried great power was the one that framed Juliet Tainui-Hernandez's portrait. As the blurb below Juliet's portrait explained:⁵³

Juliet is standing in front of her wharenuī, Karaweko, at her Ngāi Tahu home base of Ōnuku, where her ancestors signed Te Tiriti in the South Island. All Ngāi Tahu can trace ancestry to the tūpuna represented in this wharenuī, which was brought to life by a rōpū led by her godfather Pere Tainui, with the contributions and aroha of many researchers, whakapapa experts, carvers, weavers and artists. The carved pou to her left is an amo of the wharenuī, and one of her ancestors, Tākatahara. The church is Te Whare Karakia o Ōnuku, which was opened in 1878 as the first non-denominational

51 Blurb accompanying the portrait of Tupe Solomon-Tanoa'i at the Raising the Bar Exhibition, Studio One Toi Tū (7 April 2022 – 5 May 2022).

52 Blurb accompanying the portrait of Tupe Solomon-Tanoa'i, above n 51.

53 Blurb accompanying the portrait of Juliet Tainui-Hernandez at the Raising the Bar Exhibition, Studio One Toi Tū (7 April 2022 – 5 May 2022).

church in New Zealand. It was intended as a place of worship for both Māori and Pākehā to draw the communities together.

When I met her, Milner explained that the idea of including artefacts and symbols in the portraits was one that evolved across the course of the project.⁵⁴ The early works tended not to have much extra detail in them. As the series developed, however, she wanted to include a little more about the women she was painting and so asked a number of them whether she could include something of significance to them in the work.⁵⁵

I was really drawn to the works that contained these insights into the lives of the women portrayed. As has been noted above, most portraits of lawyers and judges have historically been set against plain, dark backgrounds without any props (save the occasional book) to expunge any hint of individuality and avoid any chance of the viewer being distracted from the importance and sanctity of the law.⁵⁶ This approach has also allowed the individual depicted to be understood as a symbol of the office they hold and an embodiment of the sober, conservative values with which the law is supposedly infused.⁵⁷ By departing from this tradition and allowing an array of colours and different objects to enter the canvasses, Milner has disrupted these ideas of the law and lawyers. The portraits suggest that in fact individuality in the law matters. Lawyers are not objective, dispassionate entities that can objectively decipher and apply a neutral law. They are holistic beings with different backgrounds, traditions, beliefs and ways of approaching the world that inform who they are and how they practise law. Further, by extension, the law with which they work is varied, colourful, uncertain and informed by both reason and emotion. Acknowledging these factors dispels myths about how the law works and who lawyers are, and simultaneously creates space for attributes that have traditionally been associated with the feminine to be brought into the legal fold. It is this sort of transformational change that is needed in the law if it is to become a space where all people are welcomed and valued.

While I loved the incorporation of different colours and objects in the work, I did wonder about the absence of any reference to motherhood in the portraits.

⁵⁴ Milner Interview, above n 29.

⁵⁵ Milner Interview, above n 29.

⁵⁶ As Leslie Moran has observed, books have been allowed into legal portraits only because they display “a dedication to the word of the law” and thus do not detract from the values and ideas artists have sought to portray in the works: Moran, above n 10, at 299–300.

⁵⁷ See Moran, above n 10, at 299.

Given the centrality of motherhood to many women's lives, and the concerns that exist about the ways in which the structures, cultures and practices of the legal profession create hurdles and difficulties for many mothers,⁵⁸ I thought that ideas of motherhood and the intersection between lawyers' personal and professional lives could be interesting to bring into the portraits. When I asked Milner about this silence, she explained that, in the paintings, she wanted to focus on the women's professional lives and achievements rather than their personal lives and that she was conscious of how fraught including references to motherhood could be given the "judgements people make about women's decisions whether or not to have children and then whether or not to continue to work".⁵⁹ However, she did enable the women portrayed to reference their personal lives in the blurbs that accompanied the portraits.⁶⁰ While few chose to do this, Tiana Epati did write about the fact that she had her third child while President of the New Zealand Law Society.⁶¹ Sarah Salmond-Elliot also discussed the "challenges of working from home during the Covid induced lockdowns, while caring for three young children and married to an essential worker".⁶²

Beyond the colour palette and backgrounds, another significant feature of the portraits that set them apart from traditional legal portraits was their relatively small size. Many legal portraits are painted on large canvasses which allow the figures depicted to loom large over those viewing them. The scale of the works creates the impression that the lawyers, deans and judges are powerful, dominant figures who occupy positions of great importance. In contrast, Milner's portraits fit within a 30cm x 30cm frame. She selected these modestly sized canvasses to create an intimate, non-intimidating environment where viewers would feel they could relate to the women and their professional

58 Bazley, above n 2, at 77; and Anna Hood "Reflections on the Perpetual Cycle of Discrimination, Harassment and Assault Suffered by New Zealand's Women Lawyers and How to Break it After 122 Years: Reviewing Gill Gatfield's *Without Prejudice*" (2018) NZWLJ 249 at 256.

59 Emails from Judith Milner to Anna Hood, above n 35.

60 Milner did a first draft of the blurbs and focused on the women's professional roles and contributions to society. However, she then sent the women the draft blurbs for their portraits and allowed them to make whatever changes they wanted, including adding personal information and words of advice to young women beginning their legal careers: Milner Interview, above n 29.

61 Blurb accompanying the portrait of Tiana Epati at the Raising the Bar Exhibition, Studio One Toi Tū (7 April 2022 – 5 May 2022).

62 Blurb accompanying the portrait of Sarah Salmond-Elliot at the Raising the Bar Exhibition, Studio One Toi Tū (7 April 2022 – 5 May 2022).

roles.⁶³ Milner wanted to avoid the notion that these women occupy exclusive, unattainable roles and instead invite viewers to imagine that they too could follow in the paths that these women have paved.⁶⁴

Before leaving this section on the composition of the portraits, it is important to note that while painting the portraits, Milner was not only conscious of shunning the traditional techniques and tropes of legal portraiture but also of avoiding producing works that replicated the voyeuristic way women have so often been depicted in art throughout history.⁶⁵ For much of history (at least in the Western world), artists have focussed on women's beauty and external appearance in artwork (frequently to the point of exploitation). In this exhibition, Milner wanted to ensure that women's professional achievements were brought to the fore and valued.⁶⁶ To this end the women were dressed in professional attire (although importantly they wore professional attire that allowed for individuality via the inclusion of different fabrics, colours and jewellery) and they were not sexualised or objectified. Interestingly, when I met her in person, Milner explained that her use of square canvasses was a reference to Instagram where images appear in squares.⁶⁷ Milner wanted to gesture to Instagram and the way that women are so often portrayed in highly filtered and airbrushed pictures on that platform, and then subvert this depiction of women by ensuring that the women in her portraits were valued for their contributions and not stereotypical, problematic ideas of beauty.⁶⁸

C Beyond the Portraits

There were two aspects of the Raising the Bar exhibition, beyond the portraits themselves, that struck me and complemented the ideas that the portraits emitted. The first was the content of the blurbs that accompanied the portraits and the second was the venue where the exhibition was housed.

Each portrait in the exhibition was accompanied by a blurb. There is, of course, nothing novel about the inclusion of blurbs in art exhibitions; it is standard practice. However, the blurbs in Raising the Bar offered more detail than those that accompany many other art exhibitions. The blurbs provided details about the women being portrayed including the professional roles

63 Milner Interview, above n 29.

64 Milner Interview, above n 29.

65 Milner Interview, above n 29.

66 Milner Interview, above n 29.

67 Milner Interview, above n 29.

68 Milner Interview, above n 29.

with which they had been involved in their careers, information about the objects, symbols or patterns that were included in the works, and, at times, words of advice from the women being portrayed to young women entering the profession. The fullness of these blurbs was a wonderful accompaniment to the portraits. They allowed viewers further insights into the women's lives, influences, values and ways of thinking, and opened up additional possibilities and ideas about what it means to work in the law and be a lawyer.

What is more, the words of advice offered by the women in the portraits were good for all viewers, not just those at the start of their careers, to reflect on. They provided words of encouragement, inspiration and solidarity, expressed the women's hopes for the future, and contained entreaties for us to approach our work in different, innovative ways including ensuring that we bring our whole selves into the workplace and allow who we are to influence how we work with the law. Here are some snippets from the blurbs that provide a taste of the advice offered:⁶⁹

- (a) Elizabeth Chan: "I hope for a more diverse, more inclusive and more equal world. As a young woman to another; my advice is to reach out to others for support — find the communities of support that already exist or if there aren't any, start your own. Pay it forward too: one day you will be in a position to help others. Use your powers and talents to support others too";
- (b) Sharon Chandra: "Decide what you want and set goals to get there";
- (c) Rez Gardi: "Wherever inequality exists, there stands an opportunity to turn the tide of adversity into a tidal wave of progress. Fight for what you believe in, dream bigger than you ever have, and break any barriers that stand in your way. Each step you take empowers a huge leap from those who follow you";
- (d) Sabrina Muck: "Being a lawyer should not shape who you are. Instead, let who you are shape the kind of lawyer you want to be"; and
- (e) Litia Tuiburelevu: "Be bold, creative and curious. Your life outside the law is more important than the work you do. If you come to acquire power, wealth and resources then redistribute them equitably. Don't take yourself too seriously!".

⁶⁹ The quotes here are from blurbs accompanying the portraits at the Raising the Bar Exhibition, Studio One Toi Tū (7 April 2022 – 5 May 2022).

In many respects there was also nothing particularly remarkable about the venue for the exhibition: Studio One Toi Tū gallery in Ponsonby. It is logical after all to hold an art exhibition in an art gallery. Initially though part of me wondered about the effect that might have been created had the exhibition been held in a legal setting. Might it have worked to create a more direct challenge to the male, Pākehā portraits that dominate these spaces? Would the important ideas embedded in the works about what law is and how it can be practised have come through more starkly when set against a traditional legal environment?⁷⁰ However, as I spent time with the works in the gallery space, my initial thoughts shifted and changed. The works were powerful and emitted their messages clearly by themselves; there was no need for them to be in traditional legal settings for the ideas within them to be understood. Further, Studio One Toi Tū gallery was a far warmer, more welcoming environment than many legal settings and I suspect that a wider range of people is likely to have seen the portraits than if they had been secluded in a law firm, law school or court foyer. I also like the idea of creating new spaces outside the traditional legal settings for ideas about women in the law to be explored. In many ways, shifting the exhibition beyond the confines of legal institutions into spaces where many different people can interact with it can be read as another way in which the exhibition pushed the bounds of the law and the traditional ways things have been done.

IV CLOSING REFLECTIONS

It is apparent then that Raising the Bar worked to challenge the status quo in the legal profession in multiple ways. It held up a more diverse range of role models than we often see, and both the subjects of the portraits and the ways in which they were depicted encouraged viewers to think differently about who lawyers are and what the practice of law entails. The exhibition claimed space in the profession for women from a range of backgrounds and, because legal portraits can not only be read as representations of individual lawyers but also of the law more generally, it sent powerful messages that law need not be confined to sterile, objective, neutral approaches but instead can encompass a wide array of values, ideas and views.

⁷⁰ Interestingly, Milner had initially envisaged the exhibition taking place at the University of Auckland's Faculty of Law. She was keen for the portraits to be hung in a space accessible to current law students so they could see them and be inspired by the myriad pathways represented within them. Unfortunately, however, there was not a suitable space at the Auckland Faculty of Law to display the portraits.

All of this is vital if we are to address the sexist and racist biases and problems that have afflicted the profession for so long. If we are to see the back of harassment, discrimination and assault then we need to ensure that people of all backgrounds feel welcome in legal settings, and that myriad ways of thinking and being are accepted and incorporated into the law. Milner's exhibition was a powerful way to transmit these messages and a really important complement to other steps being taken to address the profession's approach to gender and racial matters. It made it clear that it is not enough for us to look at changes to policies, rules and codes of conduct; we must also pay attention to the art surrounding the profession and the ideas which it emits.

My hope is that *Raising the Bar* is just the first of many exhibitions that bring law and art into conversation with each other in Aotearoa New Zealand and that it encourages us to consider how other aesthetic aspects of the law and legal practice influence the culture and values of the profession. I very much look forward to seeing the changes that flow from altering the images that quietly but powerfully accompany all aspects of legal life.