

Letter from dr eddie cubillo



Director, Indigenous Law & Justice Hub

Firstly, I want to acknowledge the Wurundjeri Peoples of the Kulin Nation as the Traditional Owners of the land on which the law school stands. I pay my respects to their Elders, both past and present. Their lands and waters were never ceded, and their law is still practiced!

I am really humbled to be asked to contribute to the class of 2022 yearbook! I want to congratulate you all on your achievement of getting through your Juris Doctor. It is a great achievement.

All the self-doubt, late nights of exam cramming, assignment drafting, hours of reading text and cases and then re-reading to question – wondering why they write like they do and questioning why I am still here... it is a worthwhile achievement which you can use in service of great ends! You have made it through the degree. Be proud of yourself, as it is no easy feat. As an outsider, now inside an elite institution such as the Melbourne Law School, (MLS) I know how difficult it can be to navigate the intellectual and cultural assumptions, the biases, the explicit and implicit prejudices, and the traps and pitfalls of the institutions of law. And then, to try to reconcile that with the lofty ideals of the law – the equality and justice project that it purports to be. As you go forward, and this becomes a job with different demands, continue to critically examine the 'justice' claims of law.

Hopefully you've learnt that it's not as simple as learning the right precedents or interpreting legislation – for me at least, and what I try to imbue in all of you, is that it's about thinking critically, understanding that the law as it is in Australia is part of a colonial project, that there are alternative world views and ways of being, knowing and doing that are not "less than", but alternative and equally legitimate ways of seeing and being with law.

History tells us that with a MLS Juris Doctor, that your likelihood of becoming a leader in Australian society is significant, and your opportunity great! I would ask that you reflect deeply on this, consider the privileged position you are now in, the privilege that got you here and the responsibility that comes with that privilege.

Those who came before you and received their MLS law degree have gone on to

wield extreme forms of power in this country. This includes, four Prime Ministers, three Governor Generals of Australia, four Governors of Victoria, eight Premiers of Victoria, fourteen Commonwealth Attorney Generals, fourteen Justices of the High Court and six Chief Justices of the Supreme Court of Victoria, as proudly exhibited on the electronic honour board within the MLS foyer.

Recently, the Hon. Justice Joe Williams, the first Māori judge appointed to the Supreme Court in Aotearoa (New Zealand) paid a special visit to MLS. In my Law and Indigenous Peoples class he described what the law meant to him and the responsibility of yourselves and other graduating students to deeply reflect on the 'codes' you have been taught, and how you wield the power and privilege you have received:

'Law is power written down in words. That's all law is: power written down in words. You guys, the number one law school in the country, (I think), are being given the codes.

So, you are being taught how to wield those words of power. That's a responsibility if you wish to take it up or just a job if you don't. That's up to you.'

Like many of you, I have found the culture of the MLS foreign. As a proud Larrakia, Wadjigan and Central Arrernte man I have strong cultural ties to my peoples, community, culture, and country. I also have spent the long hours in the library and the courts that constitute a settler legal training – and have attained an LLB, LLM and PhD. I navigate obligations under multiple systems of law. I have felt often through my time at MLS, that few have really understood what it is for me to live as a First Nations man, and more importantly deeply understood my peoples. What has really struck me, and continues to, like recurring slaps to the face, is the lack of empathy and real understanding of my peoples built into our structures. It seems there continues to be a racist, a "better than" mindset applied to the recently imposed legal system, an unwillingness to accept that there is a need to address the way a foreign law was installed into this country and the continued trauma that results from this.

Despite these realities, I am encouraged by the Council of Law Deans (CALD) statement... *'CALD urges all Australian law schools to work in partnership with First Nations peoples to give priority to the creation of culturally competent and culturally safe courses and programs. In so doing, CALD acknowledges the part that Australian legal education has played in supporting, either tacitly or openly, the law's systemic discrimination and structural bias against First Nations peoples. At the same time, CALD affirms the positive contribution Australian law schools can, should and will make, in full partnership with First Nations peoples, in exposing, critiquing, and remedying all forms of institutionalised injustice.'*

I hope that all Australian law schools and more and more of my colleagues in the profession grow to accept and live by this truth as time goes on.

Despite the lack of cultural and intellectual humility that I have at times encountered in this institution, I found that you, the students, are up for the hard conversations. Throughout your time here your strength and actions through the pandemic, genuine engagement with the referendum on a First Nations Voice and the action around racism at MLS have given me the strength to stay on and continue educating people on the trauma and continue carefully participating in this system to educate people on the trauma. I acknowledge that the system often says it seeks to represent all equally but it doesn't in reality and doesn't represent and serve all equally.

I stay because you, the students, give me hope for what law in "Australia" could become. With the 'codes' that you have acquired and your desire for justice and accountability I can imagine a future that places First Nations' principles and laws where they rightfully should be – front and centre in the hearts and minds of every person who lives on this beautiful, ancient continent. And I want to tell you to not give up your fight as you begin or continue your careers in our systems and institutions with their own racism, biases, and prejudices, founded upon ideas of cultural and intellectual superiority of the "white" or Western lens that colonists brought with them. Individually we might not feel strong, but together we are a chain, a system, a community that holds the hope for justice on this land and in this world for all!

I wish you all the best in what lays ahead.