How Systemic Racism Holds Australia Back

A Discussion of the Lack of Cultural Diversity Within Australian Politics and the Law

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Any Australian person with a 'non-Anglo-Celtic' appearance can tell you about a time when they have been asked 'but where are you really from?', or worse, been on the end of racist abuse.

As someone with brown skin and 'Khalil' as my surname growing up in 1970s and 80s Australia, I could list countless examples from my own experience.

I was born in Melbourne. I identify as an Australian of North African (Egyptian) ancestry, ethnicity and cultural heritage and I am a Member of Federal Parliament.

In the Australian context, 'ethnic' is a descriptor of a person from a non-English speaking background ('NESB'), culturally and linguistically diverse background ('CALD'), or a non-Anglo-Celtic, non-European and non-Indigenous background. There are a lot of negative definitions but broadly I am part of a demographic of Australians with Asian, Pacific Islander, Middle Eastern, South American, North African, and African background, essentially non-white ethnics who are non-Indigenous People of Colour ('NIPOC'). This group makes up 21% of the Australian population.[1]

I   Under-Representation in Politics and Law

A   Data on Representation

While instances of inter-personal racist abuse have reduced over my lifetime, a more insidious institutional and structural racism persists. In Australia, what can be broadly termed 'systemic racism'[2] results in significant underrepresentation of NIPOC in the highest levels of leadership in politics and the law, where the major decisions are made that impact all Australians and shape our place in the world.[3]

The statistics reveal an uncomfortable reality, one that belies the oft heard claims of Australia being the most successful multicultural country in the world. While we are one of the most diverse migrant democracies in the world,[4] the 'success' is only partial. Underrepresentation of NIPOC in our federal Parliament[5] marks a failure of Australian democracy to be truly representative. There is a cognitive dissonance in the underrepresentation of NIPOC in political leadership positions – while the predominantly Anglo-Celtic leaders proclaim the success of multiculturalism and celebrate our diversity.[6] This leadership gap diminishes social cohesion by reinforcing the view of migrants and their descendants as 'other'. When the rhetoric of our multicultural 'success' is not matched by the reality of what are effectively mono-cultural centres of power, the implications for the efficacy of our democracy and our judiciary are significant.[7]

Under-representation of NIPOC in our parliaments is widely acknowledged.[8] A 2018 study showed 78.1% of Australian parliamentarians[9] have an Anglo-Celtic[10] background, 16.3% European,[11] 1.5% Indigenous and only 4.1% are NIPOC.[12] This is compared to 58% of the Australian population that are Anglo-Celtic, 18% European background, 3% Indigenous and 21% NIPOC.[13]

This under-representation is even worse in the federal ministry and among the leadership ranks of the state and federal public service.[14] It has been rightly pointed out that this under-representation is a 'symbolic indicator of social structures of inequality' that challenges the value of our democracy. [15]

While there are few comprehensive data sets focussed on cultural and ethnic diversity in Australia's legal sector,[16] the data available offers a similar story, revealing Australia's cultural diversity is better reflected in junior legal ranks, but 'cultural diversity appears almost non-existent within its senior echelons'.[17]

B   Barriers to Representation

Given that Australia is a diverse, multicultural, migrant country,[18] why do our legal and democratic institutions not accurately reflect the diversity of our society?

The overarching framework for barriers to NIPOC representation in politics and the law can only be described as a systemic exclusion. This existence of a pervasive systemic racism scaffolded by structural and institutional barriers is supported by overwhelming research.[19] The numbers do not lie. Systemic racism describes the society-wide institutional favouring of some groups and the unfair treatment of other groups based on ethnicity.[20] Systemic racism is pervasive but also self-perpetuating.[21] It replicates because it is based on stubborn pre-existing structures of power and legacies of inequality that operate across layers of society.[22]

Structural disadvantage connected to ethnicity (for example inequities in wealth or access to education), overt discrimination, conscious and unconscious bias,[23] instances of 'everyday discrimination' ('being treated with less respect and courtesy, receiving poorer service than others at restaurants or stores, or being called names')[24] and experiences of 'major discrimination' ('being unfairly denied a promotion or job, or discouraged from continuing education') based on ethnicity all contribute to the perpetuation of systemic racism.[25]

1   Representation in Politics

A closer examination of the most basic starting point to political leadership – joining a political party – reveals that even this first step is not equally accessible. An individual's socio-economic and ethnic status may hinder their ability to make a significant time commitment and develop, at minimum, a basic understanding of the political system.[26] This creates a barrier to even beginning to participate for many NIPOC. Currently, the pipeline of people entering the political system at the grassroots is more Anglo-Celtic.[27] There is a growing acknowledgment that the demographics of political parties, including the party memberships of Labor, Liberal and Greens, are out of step with the broader population particularly in relation to ethnic make-up, age, class, and education.[28]

The limited number of electorates where people with a NIPOC background make up the majority of the voters, is another factor, as they create momentum for NIPOC minority candidates.[29] Australia also lacks a strong civil society movement supporting racial justice. We continue to struggle with our national conversation on truth telling, treaty and reconciliation with Indigenous Australians.[30]

Instead, Australian political parties too often use the skills of NIPOC members for recruitment in ethnic communities.[31] The step up to preselected candidate for a NIPOC is rare in a winnable seat and most often restricted to non-winnable seats.[32] This demonstrates a similar pattern to the prevalent gender disparity.

Given the aphorism that 'you can't be what you can't see', the stubborn lack of NIPOC role models in our political and legal systems is of ongoing concern because it questions the legitimacy of NIPOC within our society.[33] When there are barely any of us visible in the parliaments and courtrooms of the country, is it any wonder we continue to be told: 'Go back to where you came from'?.

The grand claims that multicultural settler democracies provide equality, freedom, and economic opportunity regardless of ethnicity, religion or gender is not reflected in the experience of NIPOC in Australia. We are failing to match our rhetoric given these ideals are held up as a fortification for democracies against the rise of illiberal nationalism and authoritarianism.[34]

Contemporary changes to our immigration programs have had an impact, including the trend away from the permanent migration post-WWII towards temporary migration beginning in the mid-1990s. Pre-pandemic there were around 2.7 million migrants on temporary visas[35] in Australia and New Zealand with much longer and obfuscated pathways (often several years) towards citizenship – a further barrier to political participation.[36] The uncertainty of their long-term status in Australia renders

political participation, let alone seeking political office, not only an unattractive use of time and resources, but not even a consideration.[37] In effect, the system is one of taxation without representation for temporary migrants.

Unconscious bias is another element of systemic racism and can play a significant role in how a person is supported or mentored (or not) to advance in a political party.[38] Even when a NIPOC is working in the political field or even considering running for political office, they will often encounter the biases of other party members, friends and family perhaps outright telling them their goal of serving as a parliamentarian can never be reached. Often this is couched in terms that an 'ethnic' candidate would not be able to represent the broader 'Australian' constituency.

That is what happened to me. I was consistently told not to run for office because as an 'ethnic' I would not win. As I went through the federal Labor preselection process, I was told repeatedly that because of my ethnicity I would struggle to win enough votes, that my name was too ethnic and that I should shave off my goatee beard to look less ethnic! (I have kept it). There is an explicit and an implicit message that is sent from the prevailing Anglo-Celtic ethnicity in politics and the law. The push to enter 'their' space is rejected either outright or with obfuscated concerns about electoral success.

2   Representation in the Law

The legal sector appears to have a more culturally diverse pipeline, with under-representation of NIPOC more prevalent at the highest levels compared to the entry-level ranks.[39] Yet numerous studies show that racial bias impacts the recruitment and employment process and disadvantages NIPOC.[40] To counter this it is common practice for NIPOC candidates to 'anglicise their names'[41] to avoid name discrimination.[42] Bias does not end once someone is hired. It can continue to unfairly impact the chances of promotion within an organisation, company or sector.[43]

3   Representation in the Corporate Sector

There are sectors that have a higher representation of people from an ethnic background compared to politics or the law. For example, 33% of all small businesses in Australia are owned by migrants and 83% of migrant business owners had never owned their own business in their home country.[44] This tenacity and work ethic is often one of the traits most celebrated as migrant success stories.

Yet new migrants are less likely to have social and professional networks in their new country that often assist with finding a job.[45] They may have qualifications from their home country that are not recognised in Australia or speak little English.[46] Studies show the main motivator for migrants to start a business is greater independence (52%) whilst 16% did so because they could not find work.[47]

NIPOC entry into the corporate workforce tends to concentrate in more technical roles within organisations including IT, finance and administration rather than executive or senior management.[48] These barriers to executive leadership in corporate Australia lead many NIPOC towards small business and 'founder start-ups', a phenomenon described as 'ethnic zoning'.[49] These trends reaffirm the impacts of the structural barriers faced by ethnic Australians struggling to enter the highest levels of politics and the law.

II   Reform

In Australian society where discrimination based on ethnicity or religion is illegal, it is no longer the letter of the law that must change. Rather we must implement structural reform that proactively dismantles systemic racism that holds NIPOC back based on their ethnicity. A pathway to guide this reform can be seen in the success in improving gender representation in Labor's federal parliamentary caucus. Since the Labor party introduced affirmative action ('AA') quotas for women in 1994, the federal Labor caucus has increased from 14% women to 48%.[50] However, barriers for women advancing to leadership positions in the parliament remain.[51]

AA as a structural reform for NIPOC representation is a much more complicated proposition. There is disagreement on definitions.[52] Cultural and ethnic identity is complex, and Australians often identify 'with more than one cultural background'.[53]

Yet to see political and legal sectors that are more representative of our community in future, we do need structural reform. Quotas have been introduced for political representation of parliaments in around twenty countries.[54] The reluctance within Australian political parties to adopt quotas or even voluntary targets

for NIPOC participation remains strong but is slowly breaking down, particularly given the relative success of gender targets.[55]

Some political parties have started, albeit slowly, to recognise and act on the issue of under-representation.[56] The corporate and legal sectors are pursuing targets.[57] But any quotas or voluntary targets for NIPOC political candidates must include corollary policies that develop talent and open opportunity.

Mentorship (particularly from the few that have made it into leadership positions), internship programs, fellowships, networking groups or training programs can all proactively increase a diverse pipeline into politics and the legal sectors.[58] Workplace training programs on unconscious bias and using blind CVs,[59] can also reduce the impact of bias on hiring processes and day-to-day work.[60]

Our education system must better educate young people about our political and legal systems, including participating as a citizen in our democracy and how to engage in the political process.[61] That basic knowledge is currently low among high school students; most do not meet minimum standards.[62]

Citizenship is critically important — 'the lack of inclusive citizenship policies has been shown to increase the political alienation felt by immigrants and ethnic minorities'.[63] What is necessary is a recommitment to permanent settlement, citizenship and civic investment in Australia, which are prerequisites to political participation and political representation.[64]

There are arguments against reform including that because discrimination based on ethnicity is illegal, the statistics will change over time without intervention and that people with merit will inevitably succeed without the need to socially-engineer promotions of NIPOC into positions that they do not deserve and have not earned.[65]

However, the experience of gender parity for women in the Labor party shows that change only happened through the AA rules, because the rules opened opportunities.[66] It wasn't that women in the Labor party lacked merit before 1994, it was that the opportunities to progress in the party were suppressed or denied.[67] The degree of difficulty for success is much higher than for men.

At the political level, candidate pre-selections and advancing to the front bench are regularly based on factors other than merit, including the MP's home state, factional alliance and whether they sit in the House or the Senate.[68] Therefore, claiming a quota or voluntary target reform will limit the rise of the meritorious, at least in politics, is a non-starter.

There is a more compelling reason for change. Today the highest levels of political and legal leadership are missing the benefits of contributions from a diverse range of people. That diversity is needed to provide 'ideas, capabilities and cultural intelligence to navigate technological, social, economic and geopolitical changes'.[69] This is critical for Australia as a trading nation reliant on connections with the world beyond our shores.[70] Without diversity at the highest levels, we lose the experience, skills, talents and diverse perspectives of a broader cross section of our society in our decision-making process.

Without this diversity, Australia is worse off, missing out on the talents of our own people to contribute to our nation.[71] Our decisions, our laws and critical legal judgements are being made by a monocultural cohort of Australians who do not reflect the population at large, nor include the plurality of perspective, experience, and cultural diversity that studies have demonstrated lead to better decisions and better outcomes.[72]

III   Conclusion

We have come a long way in acceptance and celebration of diversity as a strength of our society. There is broad public support for multiculturalism,[73] but that sentiment does not translate to the everyday experience of NIPOC, and it does not change the meagre statistics of NIPOC in positions of leadership. Support must be backed up with policies and structural reform to dismantle the pervasive systemic racism that persists. We have a way to go to see genuine multicultural success, and the inclusion necessary for its achievement, brought into the parliaments, law firms and courtrooms of Australia.

This reform goes to the heart of who we are as Australians. We are already a multicultural country, but we should also be a country where the fair go is genuine, a reality for every person, no matter their ethnicity, religion, or cultural background and where every Australian has the full, unimpeded opportunity to participate in any area of our society, economy, and political life, to contribute their skills, perspective, and experience at the highest levels of decision making in the law and politics.

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    –   Institutional racism: This is when racism is established as a normal behaviour within an organisation or society. It often results in discrimination by people who are doing jobs that others have given to them. For example, police are sometimes criticised for racial profiling, and police agencies now make efforts to eliminate institutional racism; and
    –   Structural racism: This refers to inequalities found in societies that tend to exclude some groups of people. For example, when certain groups are under-represented in fields like the media, the legal profession, or politics, it can lead to inequalities in other areas too': 'Systemic Racism', *Racism. It Stops with Me* (Web Page, 2020) <https://itstopswithme.humanrights.gov.au/systemic-racism> ('Systemic Racism').

3   This paper will focus mostly on non-Anglo migrants and Australians with migrant backgrounds, rather than Indigenous Australians – a critically important issue – but not the focus of this paper.

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9   This excludes the federal ministry which was counted separately: *Leading for Change* (n 1) 12.

10 The study defined 'Anglo-Celtic' as follows: '"Anglo-Celtic" describes those cultural backgrounds that are English, Scottish, Welsh and Irish': ibid 4.

11 The study defined 'European' as follows: '"European" includes all European backgrounds other than Anglo-Celtic – including North-West European (eg, German, French, Dutch) and Southern and Eastern European (eg, Italian, Greek, Polish)': ibid.

12 The study defined 'Non-European' as follows: '"Non-European" encompasses all other cultural backgrounds, including South-East Asian (eg, Vietnamese, Malaysian), North-East Asian (eg, Chinese, Japanese, Korean), Southern and Central Asian (eg, Indian, Sri-Lankan, Afghani), Latin American (eg, Mexican, Colombian), Middle Eastern and North African (eg, Egyptian, Turkish), Sub-Saharan African (eg, Nigerian, Zimbabwean) and Oceanic and Pacific Islander (eg, Maori, Tongan)': ibid.

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