

Discrimination in New Zealand: a personal journey

Mai Chen

I INTRODUCTION

This is an article about a Taiwanese immigrant woman in New Zealand. It concerns my experiences of discrimination which impelled me to become a law teacher and to take an academic interest in the law relating to discrimination. It is part of my personal story, but it also offers lessons for anti-discrimination law, and an understanding of the pervasiveness of discrimination in New Zealand.

The methodology used in this article to make these points is not a traditional legal criticism of anti-discrimination laws and comparative analysis to make the case for reform. Rather it uses experiences as a basis for analysing the law. Some would argue that telling "stories" is not scholarship; that as a method, it is biased, emotive and not value-neutral. However, others (including those in the critical race theory, feminist legal theory and critical legal studies schools)¹ would argue that it is false to presume the validity of traditional methods of legal analysis which have always claimed to be objective and value-neutral. Winter argues that the recent *return* to narrative in the United States is occurring because the legal community is coming "increasingly to doubt its former confidence in the neutrality and objectivity of standard legal analysis, [and that] as it retreats from its faith in abstractions, it inevitably seeks solace in the more concrete."²

Using experiences as a basis for analysing the law can challenge prevailing legal ideologies; it can "enlist empathy and understanding from [people] whose own experiences do not ordinarily lead them to challenge official views";³ and it can introduce perspectives which are usually excluded. Furthermore, experiences of discrimination can illuminate particular values and suggest particular solutions to the problems of discrimination. As Professor Mari Matsuda states:⁴

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- 1 For examples of scholarship in these areas, see R Delgado "The Imperial Scholar: Reflections on a Review of Civil Rights Literature" (1984) 132 U Pa LR 561, 574-75; S Estrich "Rape" (1986) 95 Yale LJ 1087; MJ Matsuda "When the First Quail Calls: Multiple Consciousness as Jurisprudential Method" (1989) 11 Women's Rights Law Reporter 7; MJ Matsuda "Public Response to Racist Speech: Considering the Victim's Story" (1989) 87 Mich LR 2320; R Delgado "Storytelling for Oppositionists and Others" (1989) 87 Mich LR 2411; and PJ Williams *Alchemy of Race and Rights* (Harvard University Press, Cambridge, Mass, 1991).
 - 2 SL Winter "The Cognitive Dimension of the *Agon* Between Legal Power and Narrative Meaning" (1989) 87 Mich LR 2225, 2227.
 - 3 KL Schelleple "Foreword: Telling Stories" (1989) 87 Mich LR 2073, 2074.
 - 4 Matsuda "When the First Quail Calls", above n 1.

[o]utsider scholars have recognized that their specific experiences and histories are relevant to jurisprudential inquiry. They reject narrow evidentiary concepts of relevance and credibility. They reject artificial bifurcation of thought and feeling. Their anger, their pain, their daily lives, and the histories of their people are relevant to the definition of justice. ... If you have been made to feel, as I have, that such inquiry is theoretically unsophisticated, and quaintly naive, resist! ... These proposals add up to a new jurisprudence - one founded not on an ideal of neutrality, but on the reality of oppression.

It is impossible to separate out my experiences of sex discrimination and race discrimination since they often intersect to create a set of experiences unique to immigrant Chinese women.⁵ Thus, I will deal with the experiences together. The focus of this article is the richness which experiences of discrimination can bring to writing in anti-discrimination law, primarily in understanding that discrimination attacks the spirit (by which I mean one's sense of identity and individuality) as much as the victim's pocket. Thus, any remedies for such actions must act to revive and promote the spirit as well as redress damage to property through loss of employment or accommodation. It is on this basis, among others, that I reject arguments for self-regulation in discrimination and support the need for anti-discrimination laws.

Recounting my experiences of discrimination is difficult since it means reflecting on experiences that have caused me pain. In addition, there is the fear that such significant and disturbing personal experiences may not be believed by others, or their significance disputed. It is difficult to bear the insult this can add to injury. As a six year old newly arrived from Taiwan, I recall that my teachers at a Christchurch primary school, where my sisters and I were the only Chinese, would say, "Oh I don't believe that, the other children would not treat you like that just because you're a Chinese girl. Now run along and don't be silly."

Despite the risks in recounting my experiences, I think that it is important to describe the crippling impact that discrimination can have, and the extent of that intolerance in New Zealand society, even to members of "successful" minorities, like Chinese immigrants. Such a growth in understanding would be timely as Asia becomes a significant source of immigrants and refugees to New Zealand,⁶ and as our economic future increasingly lies in Asia and the South Pacific.

⁵ See, for example, M Hong-Kingston *The Women Warrior: Memoirs of a Girlhood Among Ghosts* (Picador, London, 1975), and A Tan *The Joy Luck Club* (Ballantine, New York, 1989).

⁶ Chinese numbers have gone up 87.9% since the previous census; *1991 New Zealand Census of Population and Dwellings: Provisional National Summary*, (Dept of Statistics, Wellington, 1991) 11. During the 1981-1986 intercensal period, there was a 17.1% increase in Chinese compared with only a 2.3% increase in people of European origin; *New Zealand Official 1990 Yearbook* (94 ed, Dept of Statistics, Wellington, 1991) Table 6.27, p 181. In *New Zealand Working Party on Immigration Report of the Working Party on Immigration* (Govt Printer, Wellington, 1991) 5 it is stated that: "[t]he percentage [of immigrants] coming from the United Kingdom fell from 36 per cent in 1986 to 16 per cent in 1990. A number of countries which were

II THE EXPERIENCES THAT SHAPED ME

I was born in Taiwan into a family of four daughters. Chinese value sons more than daughters,⁷ and as the youngest, my mother always told me that I was their last attempt to have a son. They had been so sure that I was going to be a boy because I had kicked a lot in the womb. My parents gave up trying to have a son after I was born. My sisters and I grew up constantly hearing the extended family and my parents' friends saying, "Four daughters, huh, what bad luck. Well at least you will have someone to look after you in your old age." My uncle (who had four sons) took pity on my parents and offered to give them their youngest son in exchange for me. Thankfully, my parents turned down his generous offer.

My family emigrated to New Zealand in 1970, settling first in Christchurch, and then in Dunedin. There were few coloured minorities in the South Island. On the first day we were in New Zealand a kindly neighbour offered to take us girls for a walk down to the park. While the neighbour was trying to explain to us how to push the button at the pedestrian crossing, we heard an almighty crash. It was later recounted to us, via the neighbour talking to my father who spoke some English, that the offending driver had been so amazed by the sight of four Chinese girls dressed in identical red Chinese suits that he had not noticed the red light and had ploughed into the car in front of him triggering a series of crashes down the line of traffic.

There were Chinese people in Dunedin, many being offspring of those who had come to Otago during the gold rush in the 19th century, but they were mostly immigrants from China and relations between Taiwan and China were, and still are, hostile. They also spoke Cantonese or Hockien, while we spoke Mandarin. We became New Zealand citizens in 1974. Until 1975, there was no other Taiwanese family we knew of in the South Island. By 1980, we knew of only two Taiwanese families apart from our own. My father taught physical education at Teachers' College, so I spent a lot of my childhood taking part in sport. My mother gave up her teaching career to raise us, but continued to work part-time at various jobs to keep the family afloat financially.

There was a great deal of ignorance about Taiwan in Christchurch and Dunedin in the 1970s. The children at school used to ask me if we wrote in the sand in Taiwan and if

previously not major sources of immigration to New Zealand have become so. In particular Hong Kong, Taiwan and Malaysia have become important countries of origin." *New Zealand Official 1992 Yearbook*, (95 ed, Dept of Statistics) states at p 76 that "[a]s a result of the conflict in Indo-China, about 7000 Indo-Chinese refugees have been resettled in New Zealand since 1975. This has accounted for over 90 per cent of New Zealand's total refugee intake from this time."

7 Hong-Kingston, above n 4, 45 and 53, relates old Chinese sayings: "[g]irls are maggots in the rice"; "It is more profitable to raise geese than daughters"; "When fishing for treasures in the flood, be careful not to pull out girls." When we were children in Taiwan, we used to play a game where you had to cluster in groups to make up whatever sum of money was called out. Boys were worth \$1.00 and girls were worth 50 cents.

we lived in tents. "Did you have television?" "Did you eat rats?" There was derision and a sense of smug superiority in their voices. I had never had to deal with these insinuations of inferiority before. They teased us about the way we looked, and about our inability to speak English. We were ugly, slit-eyed, squashed-nose and yellowey-brown. Somehow being Chinese made us so different, so "bad" that the other children did not want to be our friends.

I remember seeing my reflection and that of Elizabeth, (a blond, blue-eyed pakeha girl), in the lavatory mirrors as we went to fetch our play lunch from our satchels. She looked so white, so fair, and all the other children thought she was beautiful. I looked almost muddy in comparison. So dark, such funny slitty eyes and a squashed nose. Even at the age of seven, I realised that I could never aspire to look like Elizabeth and that realisation made me resent being Chinese.⁸ I concluded that I could not compete on the grounds of beauty because being beautiful meant being white, having a pointy nose and thin lips. So I moved to a basis where I could compete on an equal footing - academic achievement. To me, academic achievement was race and gender neutral. I may be dark and ugly; I may be just a girl, but you had to credit me with worth because I was smart. I dressed like a boy. I hid my femininity. I made a decision that I was not interested in boys.

As I grew older, I learned to stick up for myself. I could now speak English. If I could not stop the teasing any other way, I would punch the offender and make a run for it. My parents, however, spoke with a strong accent and it hurt me deeply when people said: "What's that you're saying, I can't understand you" or gestured at my parents as if they were deaf, dumb or stupid.⁹ I will always remember the time my proud parents accompanied me to the South Island Finals of a National Speech Competition for secondary school students and were challenged (when nobody else was) by the usher as to their right to be present. Most of those attending were parents and relatives of the contestants and the usher obviously never thought that there could be a Chinese contestant in an English speech competition. The anger and helplessness I felt over this and other incidents has never left me. Immigrant children have a difficult time in a new country but the parents have it worse. They often experience a usurpation of their parental role since their children learn the new language, culture and etiquette faster and soon overtake the parents.

I observed that I was not given the same treatment as pakeha around me and had to work harder to get helpful or polite treatment. I found that I was far less likely to be discriminated against if I was with my British-born, white husband or with his family. It was as if their whiteness gave me legitimacy. However, when I was on my own, or

8 As Harris states, "[t]he relation of black [or yellow] women to the ideal of white beauty is not a more intense form of white women's frustration. It is something other, a complex inter-mingling of racial and gender hatred from without, self-hatred from within." AP Harris "Race and Essentialism in Feminist Legal Theory" (1990) 42 *Stanford LR* 581, 597-598.

9 See MJ Matsuda "Voices of America: Accent, Anti-discrimination Law, and a Jurisprudence for the Last Reconstruction" (1991) 100 *Yale LJ* 1329.

with members of my family, the difference in treatment was marked. The contrast helps me to understand why white New Zealanders find it difficult to comprehend that shop assistants, among others, could be rude and unhelpful to coloured minorities just because of their race. The world is a very different place for them - it is generally full of polite people, who try to be friendly and helpful. They find it difficult to conceive that there could be another side to people when they are dealing with coloured minorities.

The message I received from these and other experiences was clear. Being Chinese was a handicap. Since I was Chinese, I was inherently handicapped. I responded by over-compensating, by throwing off every vestige of Chineseness and fully embracing New Zealand culture. I wanted people to know that I was not really Chinese because I did not want to be treated like a Chinese. For me, becoming Kiwi was the path of least resistance in a life which already had too much resistance. It was a way of surviving.

At the age of 24, I had just returned from overseas, and my parents wanted to take me to pick paua as they had when I was younger. It was a beautiful day. My father set up his fishing gear and my mother and I started poking about in promising looking places in the rocks. We had not been there long when a man in his mid-twenties strode towards us and started shouting and gesturing with his hands. He tackled my mother first. "Not more than ten pauas" he was saying, and then held up ten fingers since he presumed she did not understand English. My mother tried to respond politely which sent the man into a tirade about "You Asians come in and take all the paua! We have laws you know, and you can only take ten". Unable to keep quiet any longer, I informed the man that we were perfectly able to understand English and to count without visual aids, so he could put his fingers down. I was well aware of the Fisheries (Amateur Fishing) Regulations 1983, and what authority did he have to harass people going about a lawful activity in a public place?

Not surprisingly to me, the man was not a fisheries officer. But my response just made him angrier. He wanted to continue arguing and he insisted on inspecting our buckets. I told him he had no right to look. Throughout, my parents looked mortified and my father kept telling me that they did not want any trouble. My father then started packing up his fishing gear and my mother gathered up our scattered coats and picnic goodies to go. They almost ran out of that place with me in tow raving that the man had no right to talk to us that way and that we should stand our ground because the beach was a public place. Our happy outing had been ruined and in the car on the way home, my mother tried to change the subject. All I could think of was how, after twenty years in New Zealand, after all the struggles and the eventual triumphs to thrive and succeed in this new country, our legitimacy to be here could still be challenged by one insignificant racist.

I also realised that, while discriminatory behaviour may not take the form of an actual refusal to allow a person to use a public place (in our case, the beach), the effect can be the same by making the racial minority feel so ashamed by the discriminatory treatment that they will relinquish the right to avoid perpetuating the treatment. Discrimination has the effect of bruising the psyche so that people submit more easily to this type of degrading treatment.

This incident particularly stood out in my mind because of my recent arrival back from overseas. I remembered saying to my husband that it was really good to be home. While we waited at Christchurch airport for our flight to Dunedin to be reunited with our families, my husband stretched out on seats some distance away to sleep. I was left to guard all the hand luggage, of which there was a great deal after two years abroad. Some white New Zealanders came and sat a small distance from us. A woman said, "Look at that Chinese woman with all that hand luggage. God, they're taking over the country. I wouldn't be surprised if she's just arrived from Hong Kong and is going to stay. Probably bring her whole family out next". She made no attempt to lower her voice and they all stared at me as they nodded in agreement.

I felt an overwhelming desire to retaliate by telling them that I spoke English and understood what they were saying, that I was a law academic who had just come back from postgraduate studies overseas, that I understood what this country had given me and wanted to make a contribution in return, and that I came from a family who were all making a significant contribution to their society. However, my experience has been that achievements do not provide full protection from discrimination. No amount of education, achievement and acculturation can make you legitimate, because some people do not respect achievements. Anyway, why should it make any difference that I could speak English and was a law academic? What if I had just arrived from Hong Kong and could not speak English? What if I was about to try to bring out my family? I understand that some New Zealanders are nervous about Asian immigrants taking their jobs in the current economic climate,¹⁰ but surely all people are worthy of respect regardless of their colour, achievements or abilities because of the inherent dignity of human beings. This principle is so fundamental that it underlies all major international human rights documents. For example, article 1 of the Universal Declaration of Human Rights states: "[a]ll human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood and [sisterhood]."¹¹

I considered marching over and punching the woman, my successful childhood strategy; but having just said how nice it was to be home, the sad irony of the whole situation hit me, and I suddenly felt very tired by my inability to escape discrimination.

My mind cast back to other instances of discrimination - I remembered how a classmate had said to me when I won a major scholarship to study abroad that it should have gone to a "real" New Zealander. After my first week in a constitutional law course at Harvard Law School, I went to see the professor to get permission to tape his classes

¹⁰ See R Gordon "The Asian Invasion" *Metro* 150, Auckland, New Zealand, July 1988, 154; T Reid "Chinatown" *Listener* 126, Auckland, New Zealand, 22 January 1990, 9; T Reid "A Clash of Values: Chinese Migrants in Auckland" *Listener* 127, Auckland, New Zealand, 29 January 1990; M McLauchlan "Far Eastern Suburbs" *Metro* 116, Auckland, New Zealand, November 1991, 117 and 121.

¹¹ The preamble to the Declaration also states: "[w]hereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world".

until I had adjusted to his American accent and the new vocabulary of American constitutional terms. He talked very fast. His secretary announced my name and my inquiry, so I did not have a chance to speak. The professor took one look at me, presumed I was a postgraduate student from China for whom English was a struggle, and said to me "If you are finding the lectures difficult to understand now, then you will never last the distance. From my experience, it would be much better if you just dropped the course right now." I tried to explain that I was a graduate student from New Zealand and that English was not a problem. He just held up his hands in protest, said that he was too busy to talk, and put his head down to continue with his work. It took a long time to recover my confidence in his class. I also felt ashamed that I had been put in the position of having to effectively say that I was not really Chinese (in terms of language ability), that I just looked like it. What if I had really been a Chinese postgraduate student from China with language difficulties?

No matter how much I achieved, the cloud of suspected incompetence never seemed to go away. When I was accepted into Harvard Law School, a New Zealand law professor remarked that he had heard that they were "looking for women". When I returned from working at the International Labour Office in Geneva to take up a lectureship at Victoria University, an academic from another institution asked me if I had been hired because the Law Faculty was looking for women.

After recounting many of her experiences of discrimination as a black woman, Professor Adrien Wing states that:¹²

[t]o some people, such incidents of micro-discrimination may appear trivial and not worthy of discussion, especially in a law journal. After all, I should be thankful that I haven't been raped, beaten or lynched as were countless numbers of my people. Yet the cumulative impact of hundreds or even thousands of such incidents has been devastating to my spirit. ...[B]lack women are lifelong victims of ... "spirit-murder." [Patricia] Williams¹³ only addresses the racial aspect, noting that racism is "a crime, an offence ... deeply painful and assaultive..." I would go further and add sexism to her characterization by saying that the combined impact of racism/sexism "is as devastating, as costly, and as physically obliterating as robbery or assault; indeed they are often the same." Racism/sexism "resembles other offences against humanity whose structures are so deeply embedded in culture as to prove extremely resistant to being recognised as a form of oppression. It can be as difficult to prove as child abuse or rape, where the victim is forced to convince others that he or she was not at fault, or that the perpetrator was not just 'playing around.' As in rape cases, victims of racism must prove that they did not distort the circumstances, misunderstand the intent or even enjoy it." To me, spirit-murder consists of hundreds, if not thousands, of spirit injuries and assaults - some major, some minor - the cumulative effect of which is the slow death of the psyche, the soul and the persona. This spirit-murder affects all blacks and all black women, whether we are in the depths of poverty or in the heights of academe [footnotes omitted].

12 A Wing "Brief Reflections Toward a Multiplicative Theory and Praxis of Being" (1991) 6 Berkeley Women's LJ 181, 185-186.

13 PJ Williams, above n 1.

The worst effect of discrimination is self-hatred, hatred of what you inherently are, and rejection of those things that make you less worthy in the eyes of others. This is compounded for coloured women by the combination of racism and sexism. You suffer low self-esteem and a loss of confidence. Since the offences are primarily to the spirit and not necessarily to the pocket, remedies must address the first mischief and not just the grievances to property. This does not mean that, in itself, passing anti-discrimination laws will result in victims of discrimination moving beyond self-hatred to a love of self, to an understanding that they will never win acceptance from those outside, but that love must come from within. But the passage of such laws can help, as I argue below.

III THE BENEFITS OF EXPERIENCE

Lawyers who have experienced discrimination can bring a unique and valuable contribution to the law. It was my experiences of discrimination that first attracted me to the law. I studied law because I saw it as a tool to redress the powerlessness and discrimination that I, and those I loved, had experienced. I came to the law, not to perpetuate the status quo, but to change it and so I chose an academic career where I could write and think about how the law could be better. I also wanted to teach so I could support students who did not fit the traditional lawyer mould.

A *Mentoring Students*

My own experience of legal education had been difficult. The struggle of minority women, especially those who are immigrants, to achieve legitimacy makes it difficult for them to assert their difference.¹⁴ For me, this meant that even when I wanted to question the impact of certain laws on the oppressed, and to query the "fairness" of laws, I sometimes said nothing.¹⁵ When you are naturally an outsider, the desire to conform and to be one of the crowd is very strong. Fear of rejection and discrimination provide strong incentives. Yet I found the cultural context in which the law is developed and practised very different from the one I had grown up in. I did not fit the mould and I agonised over whether I had any contribution to make to the law. Ten years after I started my law degree, the realisation dawns on me that much of the contribution I have been able to make to the law is directly due to my difference.¹⁶ It is that realisation which made me determined to return to the university to encourage students who did not

14 See M Chen "Drawbacks of the Tough Law School Environment in New Zealand and the United States. Is Reform Women's Work?" Unpublished paper prepared for a Comparative Legal Education course at Harvard Law School, 1987, (on file with author).

15 See Matsuda "When the First Quail Calls", above n 1, for a similar description of how "women-of-colour consciousness" affects the way coloured woman students view the law. Matsuda calls this "the multiple consciousness of the disempowered". See also Matsuda, above n 9, 1330.

16 See MJ Matsuda "Affirmative Action and Legal Knowledge: Planting Seeds in Plowed-Up Ground" (1988) 11 Harv Women's LJ 1 for a description of how another coloured female academic has been able to make a contribution stemming from her difference.

fit the traditional lawyer stereotype that they could make a contribution to the law, that they can survive law school and make a difference. I was Advisor to Women Students in the law faculty from 1990 to the end of 1992 and I have mentored, and continue to mentor, women students, many of whom are coloured.

B *Legal research and writing*

My experiences of discrimination have brought insights to my work that would otherwise be missing, and in particular, has enhanced my research on anti-discrimination law. The book I am currently writing on discrimination seeks to refute the case to repeal all employment discrimination laws in the private sphere such as is propounded by Professor Richard Epstein in *Forbidden Grounds: The Case Against Employment Discrimination Laws*. It is partly on the basis of my experiences of discrimination that I conclude that Professor Epstein's arguments are flawed. He takes no account of the cost that discrimination inflicts on the spirit and of the benefits that anti-discrimination laws can have in reviving and promoting the spirit.¹⁷

Epstein argues that discrimination in the private sphere of employment holds little risk of social or private peril and should be permitted since free entry into the market and multiple employers provide ample protection for all workers. If 90 per cent of employers do not want to hire you, then you can concentrate on doing business with the other ten per cent. Although the universe of potential trading partners is smaller, Epstein states that the critical question for my welfare is not which opportunities are lost but which are retained.¹⁸ There are many problems with his arguments even if traditional methods of criticism are used. For example, why should victims of discrimination have to incur greater information costs to find the ten per cent of "willing" employers? Their range of choices is also diminished, along with their bargaining power, since the employer knows that 90 per cent of the other employers would not hire such a person.

My experience of discrimination adds a further dimension to my analysis in leading me to argue that the effect of being turned away nine times may well devastate the spirit and undermine a person's confidence so that they may not try a tenth time. There is no point saying that the victim should not give up. The reality is that such people do get dispirited, and who could blame them? Those who are discriminated against are often "discrete and insular" minorities, or from groups who have a long history of discrimination, and are relegated to the position of political powerlessness, even though the characteristic that is their badge of distinction may bear no relation to ability to perform or contribute to society, and is an immutable characteristic that is either inherent or uncontrollable.¹⁹ Conditioning and experience from a very young age tells

17 Matsuda "When the First Quail Calls", above n 1, 9.

18 RA Epstein *Forbidden Grounds: The Case Against Employment Discrimination Laws* (Harvard University Press, Cambridge, Mass, 1992) 30.

19 See *United States v Carolene Products Co* 304 US 144, 152, n 4; 58 SCt 778, 783; 82 L ed 1234, 1241 (1938). See W Sadurski "Judicial Protection of Minorities: the Lessons of Footnote Four" (1988) 17 Anglo-Am LR 163.

these groups that the world is hostile, and it may well be self-preservation for them not to try again. The fear of rejection may be an invisible "barrier to entry" for victims of discrimination. The barrier is strengthened by the unpredictability of discrimination. What if the next employer is not part of the ten per cent who will be willing to employ you? The effort of bracing yourself for discrimination and rejection may defeat your will to try at all. Epstein's arguments for repealing anti-discrimination laws in employment are flawed because he fails to factor damage to the spirit, and the ability of anti-discrimination laws to revive the spirit into his cost/benefit analysis of such laws.

Anti-discrimination laws can revive and promote the spirit by reaffirming the principle that discriminatory treatment on the basis of characteristics such as race or sex is wrong, that it is contrary to the public interest and censured by the state. Such laws can aid discriminated groups to move beyond self-hatred to a love of self, and may also encourage those who believe themselves to be vulnerable to discrimination to assert rights they would otherwise abandon. As Fiss states, "[r]eliance on self-regulation entails a silence that may be pregnant with contrary implications for the likely victim."²⁰

Anti-discrimination laws also provide a necessary minimum safeguard to ensure that minorities are able to exercise and enjoy their rights on an equal basis with other New Zealanders. On returning from overseas, my husband and I went flat-hunting in Wellington. We had followed up an address in Mt Victoria which was a vacant flat under the landlord's house. We had come from work, so we were smartly dressed. While my husband parked the motorbike, I walked towards the flat and greeted the Greek landlord who was sitting on the veranda. He stared at me very disapprovingly and did not respond to my greeting. When my husband arrived, the landlord removed his gaze from me for the first time and said to my husband, "the flat is gone". He then entered his house slamming the door behind him. The flat was not taken - I checked.²¹

Although I was furious about the incident, the shame of having to confront being rejected on the basis of my race held me back from complaining to the Race Relations Conciliator. My earning ability allowed me to get accommodation elsewhere, so I justified my inaction on the basis of not compounding the difficulties of settling into a new city and a new post at Victoria University Law Faculty. I understood that my privileged position allowed me at least to mitigate my powerlessness to some extent. I thought hard about what I would have done if we had been desperate to find accommodation and how much more, in those circumstances, that discriminatory treatment would have knocked my confidence.

To the critics of anti-discrimination legislation who argue that we can never change people's prejudices, I respond that that is not the whole aim of such legislation. Landlords may continue to think racist thoughts, but the law can prevent them from acting on those prejudices to prevent coloured minorities from getting accommodation.

20 OM Fiss "A Theory of Fair Employment Laws" (1971) 38 U Chicago LR 235, 249.

21 The problem of minorities discriminating against other minorities requires an article in itself, and I will not elaborate on it here.

As Maya Angelou states, "you cannot legislate love, but what one can do is legislate fairness and justice. ... Legislation affords us the chance to see if we might love each other."²²

IV VALUING DIFFERENCE

New Zealand needs to maintain effective anti-discrimination laws as a minimum safeguard of people's ability to exercise and enjoy their rights without discrimination, and to reaffirm the principle that discriminatory treatment on the basis of characteristics such as race or sex is wrong. This is important for affirming and reviving the spirit, damage to which is a major cost of discrimination. Such laws can encourage groups which are discriminated against to express that difference without fear of denigrating and humiliating treatment, to be proud of their differences instead of responding to the incentives that discrimination creates to conform with the Kiwi majority. Anti-discrimination laws may also bring people together by challenging the basis of people's prejudices and showing them up for what they really are - unfounded.

When I was growing up, I resented my differentness because people discriminated against me as an immigrant Chinese female and that made my life hard. But the passage of time has brought the realisation that what may be perceived by others to be weaknesses can be turned to strengths. It is these differences and the experiences which stemmed from them that have enriched my research on anti-discrimination law.

Well-meaning people often say to me that they do not notice that I am Chinese. They think of me just as one of them. As much as I appreciate the sentiment, the fact is that I am not the same. We are all different, one from each other, and that is something to be valued, not denigrated.

22 B Laker *I Dream a World: Portraits of Black Women Who Changed America* (Stewart, Tabori & Chang, New York, 1986) 162.

