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# Against coloniality in the international law curriculum: examining decoloniality

Michelle Burgis-Kasthala<sup>a</sup> and Christine Schwobel-Patel<sup>b</sup>

<sup>a</sup>School of Law, University of Edinburgh, Edinburgh, UK; <sup>b</sup>School of Law, University of Warwick, Coventry, UK

## ABSTRACT

Prompted by the “Rhodes Must Fall” movement in South Africa, debates concerning the decolonisation of the university curriculum have gained increased traction. In the discipline of international law, a tentative pedagogical project of decolonising the university builds on a rich academic debate on the continuities of colonialism. Our contribution to this emerging pedagogical project is to introduce traditions of thought on decoloniality that may complement already existing reflections on and suggestions for decolonising the curriculum. We highlight some key concepts from Latin American thinkers on decoloniality and consider how far this body of knowledge can be translated into a decolonised international law curriculum. For this purpose, we devise four tactics of decoloniality: the tactic of accepting an “ecology of knowledges”, the tactic of “locus enunciations”, the tactic of “dialogical teaching”, and the tactic of troubling a “pedagogy of absences”.

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[T]he night of the sword and the bullet was followed by the morning of the chalk and the blackboard.

Ngugi wa Thiong'o<sup>1</sup>

## Introduction

“Rhodes Must Fall!” first became a demand attached to decolonising the university curriculum in 2015. The protest movement originated with a group of students at the University of Cape Town, who called for a statue of the nineteenth-century imperialist and white supremacist Cecil Rhodes to be taken down.<sup>2</sup> Soon, students at Oxford University organised in protest to demand

**CONTACT** Christine Schwobel-Patel  [christine.schwobel-patel@warwick.ac.uk](mailto:christine.schwobel-patel@warwick.ac.uk)  School of Law, University of Warwick, Coventry, UK

<sup>1</sup>Ngugi wa Thiong'o, *Decolonising the Mind: The Politics of Language in African Literature* (Pearson Education Limited 1986) 9.

<sup>2</sup>Abdul Kayum Ahmed, “#RhodesMustFall: How a Decolonial Movement in the Global South Inspired Epistemic Disobedience at the University of Oxford” (2019) 62 *AfStudRev* 1.

that a similar statue of Rhodes be taken down.<sup>3</sup> Students at Harvard Law School also organised around the “Royall Must Fall” demand – Isaac Royall Jr, whose endowment founded the law school and whose family crest made up the official seal, was a brutal slaveholder.<sup>4</sup> More initiatives to tear down the symbols of white supremacy in higher education institutions and beyond followed, accompanied by calls to question dominant forms of knowledge and how they are reproduced,<sup>5</sup> especially in the wake of renewed Black Lives Matter initiatives since 2020.

In international law, the confrontation with dominant forms of knowledge production has taken place with significant efforts to unsettle the assumption of the claim to universality of international law. Of particular note is the work that aims to draw out the Eurocentrism of the field within a wider “turn to history”, or historiography.<sup>6</sup> Much of this scholarship suggests that Eurocentrism and imperialism in international law are not confined to history, but have persisted into the present.<sup>7</sup> Recent literature points to deep structural inequalities between the Global North and the Global South that are woven into the very fabric of international law.<sup>8</sup> The exposure of such inequalities tends to create some discomfort in a discipline deeply wedded to the progressive promise of international law, pronounced most decisively in the narratives around decolonisation and human rights “universalism”.<sup>9</sup>

In particular, scholars associated with Third World Approaches to International Law (TWAIL) have challenged the claims to universality and progress narratives that are still so common in the field. By focusing on overlooked aspects of international legal histories structured by colonialism, this body of scholarship has not only contributed to making our understanding of the past richer, but also enabled critical reflection on persisting relations of oppression and domination.<sup>10</sup> Along with feminist and other critical lawyers, TWAIL scholars agree that pedagogy is a crucial part of transforming the discipline, and, more ambitiously, its social context.<sup>11</sup> Both critical scholarship and

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<sup>3</sup>See Dalia Gebrial, “Rhodes Must Fall: Oxford and Movements for Change” in Gurinder K Bhambra, Dalia Gebrial and Kerem Nisancioglu (eds), *Decolonising the University* (Pluto Press 2018) 19.

<sup>4</sup>Antuan Johnson, Alexander Clayborne and Sean Cuddihy, “Royall Must Fall” *HarvCrim* (2015) <[www.thecrimson.com/article/2015/11/20/hls-royall-must-fall/](http://www.thecrimson.com/article/2015/11/20/hls-royall-must-fall/)> accessed 1 March 2022.

<sup>5</sup>Noha Abou El Magd, “Why Is My Curriculum White?” (2016) <[www.nusconnect.org.uk/articles/why-is-my-curriculum-white-decolonising-the-academy/](http://www.nusconnect.org.uk/articles/why-is-my-curriculum-white-decolonising-the-academy/)> accessed 27 March 2020.

<sup>6</sup>For example, see Rose Parfitt, *The Process of International Legal Reproduction: Inequality, Historiography, Resistance* (CUP 2019).

<sup>7</sup>Especially see Antony Anghie, *Imperialism, Sovereignty and the Making of International Law* (CUP 2005); and Jennifer Pitts, *Boundaries of the International: Law and Empire* (HUP 2018).

<sup>8</sup>For example, see John Linarelli, Margot E Salomon and M Sornarajah, *The Misery of International Law* (OUP 2018).

<sup>9</sup>Anne-Charlotte Martineau, “Overcoming Eurocentrism? Global History and the *Oxford Handbook of the History of International Law*” (2014) 25 *EJIL* 329. On the role of progress, see Thomas Skouteris, *The Notion of Progress in International Law Discourse* (T M C Asser Press 2008).

<sup>10</sup>Both critical race theory (CRT) and TWAIL emerged in the US legal academy and although both are concerned with highlighting and then overcoming legalised forms of racial oppression, there has not been significant cross-fertilisation. Part of this is explained by the timing of the two movements and their own particular personalities and institutional hubs. CRT’s orientation tended to remain domestic, whereas TWAIL’s key concern has always been the international or the global. For earlier examples of scholarship noting CRT and TWAIL synergies, especially see Ruth Gordon, “Critical Race Theory and International Law: Convergence and Divergence” (2000) 45 *VillanovaLRev* 827; and Makau Mutua, “Critical Race Theory and International Law: The View of an Insider-Outsider” (2000) 45 *VillanovaLRev* 841. For a consideration of the shared sympathies between TWAIL and LatCrit theory, see Antony Anghie, “LatCrit and TWAIL” (2011) 42 *CalWestLJ* 311.

<sup>11</sup>For an illustration of this in relation to human rights higher education, especially see Michalinos Zembyas, “Re-Contextualising Human Rights Education: Some Decolonial Strategies and Pedagogical/Curricular Possibilities” (2017) 25 *Pedagogy, Culture & Society* 487.

teaching are grounded in an emphasis on mutual learning rather than imparting knowledge, and relatedly, a commitment to knowledge as “praxis”: praxis, in the words of Paulo Freire being about gaining and applying knowledge in order to transform structures of oppression: “reflection and action upon the world in order to transform it”.<sup>12</sup> With some delay, this commitment to challenging Eurocentrism in their *research* on the norms, institutions, and actors of international law is then transposing into an exchange by educators of international law on their labour as political actors, including their *teaching*. The editors of a special issue titled “TWAAIL – on Praxis and the Intellectual” fittingly describe praxis “as the relationship between what we say as scholars and what we do – as the inextricability of theory from lived experience”.<sup>13</sup> In the past, there was a tendency to separate what was said in research from what was said in the classroom. Much credit belongs to scholars in and from the Global South, as well as students, who are driving the pedagogical aspects of this praxis project for the discipline, contesting the dominant and largely homogenous teaching of international law to date.<sup>14</sup>

However, this debate can still be infused with a richer literature and more varied traditions of thought. Whilst TWAAIL has been enormously important in highlighting neo-colonialism,<sup>15</sup> there are still untapped areas. These include, among others, critical race theory, queer theory, and the scholarship on decoloniality. We propose that the latter is useful for the debate on decolonising, not only due to its name, but due to its emphasis on epistemology. Epistemology concerns the question of *how* knowledge is conceived and shared, along with *what* and *whose* knowledge is valid.<sup>16</sup> It is a truism to say that universities are sites of knowledge production and reproduction. What has only recently been problematised, in particular through the Rhodes Must Fall movement, is that universities play a role in perpetuating existing domestic and international power structures and inequalities. Once it has been exposed – through academic research and/or through protest – that universities are implicated in the reproduction of *selective* epistemologies, university teachers are faced with some important decisions. Crucially, teachers must consider whether they have been complicit in the production and reproduction of a select few epistemologies; and, if they have, what their role is in contesting this.<sup>17</sup> It is here that we introduce the term “coloniality” as that which signifies epistemological and material conditions of difference and oppression informing both the past as well as the present. We find that this term serves a particular purpose in clarifying the work that modernity did and continues to do in structuring which “truths” are (re) produced and how.

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<sup>12</sup>Paulo Freire, *Pedagogy of the Oppressed* (Myra Bergman tr, Penguin Classics 2017) 51.

<sup>13</sup>Usha Natarajan and others, “Introduction: TWAAIL – on Praxis and the Intellectual” (2016) 37 TWQ 1948.

<sup>14</sup>See Mohsen al Attar, “Must International Legal Pedagogy Remain Eurocentric?” (2021) 11 AsianJIL 176.

<sup>15</sup>There is no one authoritative definition of neo-colonialism, but we find it helpful to think with Kwame Nkrumah of the “neo” as signifying two key absences in distinction from colonialism: the absence of a need to justify at home the actions taken abroad and the absence of protection against violent moves of those who served the ruling imperial power. Kwame Nkrumah, *Neo-Colonialism, The Last Stage of Imperialism* (Panaf 1965).

<sup>16</sup>Recent reflections on the “how” of teaching international law have included, for example, the use of new technologies like social media in the classroom. See Tarcisio Gazzini, “A Fresh Look at Teaching International Law – A Few Pedagogical Considerations in the Age of Communications” (2016) 29 LeidenJIL 971.

<sup>17</sup>Gebrial (n 3) 26.

Such a structural view on knowledge requires the educator to confront her positionality vis-à-vis structures of knowledge and power in the university and beyond.<sup>18</sup> International lawyers already have the necessary tools to start this process, even if it is an uncomfortable one. International lawyers and educators are aware that they are not “abstract universals”, but instead are both “universal and particular at the same time, speaking a shared language but doing that from their own localisable standpoint”.<sup>19</sup> The norms and institutions that international lawyers deal with may claim to be global, and even universal, but the individuals teaching the discipline are not.

In this context, we must highlight our own positionality in reflecting on coloniality and international law. As Western female educators, we have had an easier path to understanding international law, as it has been part of our histories grounded in white privilege. We know that this has at times allowed our voices to be privileged under the assumption that we are continuing a long-standing project of colonised and colonising international law.<sup>20</sup> We are aware of the dangers of taking up space in a debate that needs to prioritise voices from minority scholars in the Global North and the Global South and we are wary of appropriation of voice through solidarity.<sup>21</sup> At the same time, these are not simple equations. The importance of work on intersectionality has been to highlight how solidarity can be garnered through experiencing both privilege and disadvantage, depending on the specific power relations at play.<sup>22</sup> Moreover, we want to take seriously not only that *everyone* should be confronting coloniality, but also that the labour required to highlight and contest coloniality should not singularly rest with scholars in and from the Global South.<sup>23</sup> We have therefore considered carefully what our contribution to the debate is, namely, in introducing a tradition of thinking about coloniality and decoloniality that remains under-appreciated in our discipline. We have set out to introduce the work of decolonial scholars to the debate, scholars who place coloniality historically as beginning in 1492 with the “discovery” and colonisation of the Americas. These include Arturo Escobar, Nelson Maldonado-Torres, and Walter Dignolo and Catherine Walsh.<sup>24</sup>

The article begins with a brief appraisal of the “typical” international law pedagogy and curriculum development. Building on research into curricula across the Global North and the Global South, we seek to illustrate the striking similarity in approaches, the majority of which tend to gloss over coloniality in international law. The next section provides an overview of relevant decolonial scholarship, whose influence has as yet

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<sup>18</sup>For example, Luis Eslava, “The Teaching of (Another) International Law: Critical Realism and the Question of Agency and Structure” (2020) 54 *The Law Teacher* 368.

<sup>19</sup>Martti Koskeniemi quoted in Anthea Roberts, *Is International Law International?* (OUP 2017) 23.

<sup>20</sup>On the link between decolonising our teaching, positionality and self-reflexivity, see Leon Moosavi, “The Decolonial Bandwagon and the Dangers of Intellectual Decolonisation” (2020) 30 *International Review of Sociology* 332.

<sup>21</sup>Sara Ahmed has described reflections on whiteness as making the invisible visible for white people, “for non-whites, the project has to be described differently: it would be about making what can already be seen, visible in a different way”. Sara Ahmed, “Declarations of Whiteness: The Non-Performativity of Anti-Racism” (2003) 3(2) *Borderlands e-Journal*, <[https://webarchive.nla.gov.au/awa/20050616083826/http://www.borderlandsejournal.adelaide.edu.au/vol3no2\\_2004/ahmed\\_declarations.htm](https://webarchive.nla.gov.au/awa/20050616083826/http://www.borderlandsejournal.adelaide.edu.au/vol3no2_2004/ahmed_declarations.htm)> accessed 2 March 2022.

<sup>22</sup>Kimberlé Crenshaw, *On Intersectionality: Essential Writings* (New Press 2017).

<sup>23</sup>On the question of the invisible labour of students in decolonising, see Jin Man Tan, “The Many Layers of Invisible Labour Decolonising the Curriculum” (2021) *TWAILRev* <<https://twail.com/the-many-layers-of-invisible-labour-decolonising-the-academy/>> accessed 2 March 2022.

<sup>24</sup>It seems necessary to state that we do not wholesale subscribe to the views of these scholars, or their politics. Rather, we believe that in order to understand the term “coloniality”, it is useful to understand the literature that has arisen around this and other terms.

barely been felt within the law school. The key aim here is to introduce some of this literature, and to highlight both similarities and differences between decolonial scholars and a range of other critical scholars – including (perhaps more familiar) postcolonial scholars. With such a basis, we consider movements of decolonising the university in general before returning in the final section to our discipline of international law. Here, we suggest four tactics for decolonising the curriculum that build on decolonial scholarship, namely an “ecology of knowledges”, “locus enunciations”, “dialogical teaching” and a “pedagogy of absences”. We apply some examples from our own teaching to illustrate these tactics. Our aim is that these tactics may be taken up in the classroom specifically and more generally as a means to question the role of universities and the knowledge(s) they (re)produce. Although we set out differences between the decolonial, postcolonial, and (more recently) anticolonial, we do not wish to place their tactics in opposition to or in competition with one another. Rather, the tactics we propose could be a new impetus for decolonising the curriculum, or they can supplement tactics already applied by educators influenced by postcolonial or critical pedagogies.

### The “typical” international law curriculum

In many ways, it is remarkable that there is something like a “typical” international law curriculum at all.<sup>25</sup> International law has been produced, reproduced and resisted in so many different ways that one would expect syllabi to differ significantly depending on where and by whom the subject is taught. Even within a single nation state, one might expect the syllabus to be different depending on the student body, the location in regard to its relationship with empire (for example, whether as administrative or judicial centre or periphery, or whether as mercantilist centre or periphery), and its political-economic landscape (for example, whether located near a manufacturing hub, natural resources, or corporate headquarters).<sup>26</sup> And yet, the impetus for the universality of international law often leads to the dismissal of social, political, economic and cultural contexts as part of “the particular”.<sup>27</sup> In our research of international law syllabi – whether in North America, Europe or former European colonies – we found that there was a distinct focus on “universal” (or at least “global”) principles and institutions.<sup>28</sup> But this in itself is not intended to be a universalising observation.

<sup>25</sup>We focus here largely on courses in foundational international law, often referred to as public international law to distinguish it from private international law. Through the decades, many additional courses have been introduced, particularly international economic law modules and international human rights law modules.

<sup>26</sup>For example, when Christine joined teaching teams at King’s College London, the University of Liverpool, and the University of Warwick, she found that the syllabi hardly differed despite these locations in the South, North and Midlands experiencing English histories of colonialism and neo-colonialism in different ways. Michelle has had similar experiences in spite of teaching in two Scottish universities, the University of Edinburgh and the University of St Andrews.

<sup>27</sup>Especially see Zoe Pearson, “Spaces of International Law” (2008) 17 *GriffLRev* 489.

<sup>28</sup>Our methodology has been based on available online syllabi, published reflections on teaching, and discussions with fellow teachers of international law. There is a wide discrepancy across regions and universities in availability of access to course details and curriculum content. Putting language barriers aside, resource disparities are the key driver in explaining the dearth of data available online from universities in the Global South. For an overview of reflections on the teaching of international law, see Christine Schwöbel-Patel, “Teaching International Law”, *Oxford Bibliographies in International Law* (2018) <[www.oxfordbibliographies.com/view/document/obo-9780199796953/obo-9780199796953-0166.xml?rsk=05T3w5&result=181](http://www.oxfordbibliographies.com/view/document/obo-9780199796953/obo-9780199796953-0166.xml?rsk=05T3w5&result=181)> accessed 2 March 2022.

Given our interest in decolonising the curriculum, our focus is mainly on the reproduction of knowledge through curricula in former European colonial states and their colonies.<sup>29</sup> This provides an overview of international law as it is taught across a Global North–Global South axis.<sup>30</sup> Having experience of teaching international law at different institutions of the Global North, we specifically set out to gain information on the teaching of international law in the Global South. Apart from conversations with colleagues to gain anecdotal knowledge, we collected data on 124 international law courses in the Global South. Broken down, these amounted to 43 international law courses in Africa, 27 in the Asia Pacific region, 23 from the Middle East and North Africa region, and 31 from Latin America.<sup>31</sup> Some included great detail; others only a brief outline. This gathering of information, largely from the internet, necessarily involves omissions and biases. In particular, an outline of a course, or the marketing of a course by an institution, does not tell us a great deal about the teaching “delivery” or the extent to which decolonial forms of pedagogy are possible within these spaces.<sup>32</sup> We will return to this point later. Nevertheless, this form of research allowed us to detect certain patterns in syllabi.

Syllabi across the Global North and the Global South typically begin with a history section – Grotius as the “father” of international law and the Treaty of Westphalia in 1648 as the starting point of (European) international law. Teaching outlines then move to the structure of international law, with a teacher’s main question seeming to centre on the decision of whether to begin with subjects (such as states, international organisations and individuals) or sources (especially through treaty and customary international law). After such introductory topics, often there will be a few teaching sessions dedicated to the substance and institutions of international law, with international human rights law, aspects of international criminal law and the law of armed conflict all making brief appearances.

Across the board, syllabi tend to follow the structure of the most popular textbooks. The interdependence between textbook and syllabus is indisputable.<sup>33</sup> What is perhaps most astonishing is that certain textbooks reappear on international law syllabi across the globe. Brownlie/Crawford, Evans,<sup>34</sup> Oppenheim, Shaw, and more recently the slimmer textbook by Klabbers, make up the small number of textbooks that reoccur on syllabi across the English-speaking world.<sup>35</sup> According to Roberts,

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<sup>29</sup>We acknowledge that there is no neat dividing line. Not only is there in the words of Luis Eslava a “proliferation of Souths in the North and Norths in the South”, but there are also states where the perceived continuation from colonised state to structurally disadvantaged state does not apply. Not least, this is the case with the USA, which was historically under colonial rule but itself has adopted the role of coloniser, first and foremost in relation to the Indigenous population. Luis Eslava, “TWAIL Coordinates” (*Critical Legal Thinking*, 2019) <<https://criticallegalthinking.com/2019/04/02/twail-coordinates/#fn-27281-2>> accessed 2 March 2022.

<sup>30</sup>What we largely omit, but what are no less interesting for the study of imperial and anti-imperial teaching, are the international law syllabi in Russia and the former Soviet Union and in China. Among the recent literature, see for example Lauri Mälksoo, *Russian Approaches to International Law* (OUP 2015) and Phil CW Chan, “China’s Approaches to International Law since the Opium War” (2014) 27 *LeidenJIL* 859.

<sup>31</sup>Given our focus on the Global South as a term often used in association with the Third World, we have not included syllabi from the former Soviet Union, or its former satellite states.

<sup>32</sup>Especially see Priyamvada Gopal, “On Decolonisation and the University” (2021) 35 *Textual Practice* 873.

<sup>33</sup>Florian Hoffmann calls this the “pseudo-positivist textbook tradition” which fails to mention that positivism itself is a distinct perspective. Florian Hoffmann, “Teaching General Public International Law” in Jean d’Aspremont and Jörg Kammerhofer (eds), *International Legal Positivism in a Post-Modern World* (CUP 2014) 351.

<sup>34</sup>Malcolm D. Evans, *International Law* (OUP, 2018); Malcolm N. Shaw, *International Law* (CUP, 2021).

<sup>35</sup>James Crawford, *Brownlie’s Principles of Public International Law* (OUP 2019); Jan Klabbers, *International Law* (CUP 2017); Rosalyn Higgins and others, *Oppenheim’s International Law: United Nations* (OUP 2017). For a decolonial appraisal of some of these key texts see al Attar (n 14) 184–87.

a similar pattern of “legal colonisation” is repeated in former French colonies.<sup>36</sup> International law teachers at British universities have been particularly influential as authors in the global textbook market, which is dominated by Cambridge University Press and Oxford University Press. Rather than produce new country-specific textbooks, materials remain in the lingua franca or tend to be translated from English into the domestic language.<sup>37</sup> Along with this reproduction through textbooks, there have been repeated calls to streamline the teaching of international law entirely, including suggestions for a customisable global “bare bones course”,<sup>38</sup> as well as a London-based “international law school”.<sup>39</sup>

Certainly, there are some differences in the way in which international law is taught, irrespective of the syllabus. For example, abstract principles can be injected with life through an engaging narrative, and the reproduction of the positive law of international law can be taught with a critical spin. Nevertheless, a syllabus sets key parameters. In the case of international law, these parameters are mostly structured by Eurocentric epistemologies that are the product overwhelmingly of white European men.<sup>40</sup> For example, in his survey of international law textbooks used in Latin America, Lorca notes how the dominant approach is to start with authorities laid out by “great” English and French scholars before turning to regional counterparts.<sup>41</sup> Abstract principles such as sovereignty or self-determination tend to be inflected with a generalised meaning, separated from their historical processes of (re)production.<sup>42</sup> This builds on Enlightenment notions of rationality and progress, which deeply influenced the first teachers of international law at the end of the nineteenth century.<sup>43</sup>

Along with this focus on principles, teachers of international law have historically been concerned about the relevance of their discipline, which continues to ask “is international law really law?”.<sup>44</sup> This appears to have spurred an insistence on the extrapolation of European domestic law principles to the international sphere. Martti Koskenniemi summed up the view of nineteenth-century European lawyers in the following way: “States could, after all, be conceived as legal subjects in a system where their territorial possessions were like property, their

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<sup>36</sup>Roberts (n 19) 131–34.

<sup>37</sup>Even in former Dutch colonies, English textbooks prevail. Hikmahanto Juwana, “Teaching International Law in Indonesia” (2001) 5 *SingaporeJLCompL* 412.

<sup>38</sup>John K Gamble, “An Introductory Course: Clear/er Solutions – The Case for a Bare-Bones Course in International Law” (2002) 4 *International Law Forum* 208.

<sup>39</sup>J Gillis Wetter, “The Case for International Law Schools and an International Legal Profession” (1980) 29 *JCompLQ* 206.

<sup>40</sup>Mohsen al Attar and Shaimaa Abdelkarim, “Decolonising the Curriculum in International Law: Entrapment in Praxis and Critical Thought” (2021) *Law and Critique* (published online at <https://link.springer.com/article/10.1007/s10978-021-09313-y>).

<sup>41</sup>Arnulf Becker Lorca, “International Law in Latin America or Latin American International Law? Rise, Fall, and Retrieval of a Tradition of Legal Thinking and Political Imagination” (2006) 47 *HILJ* 283.

<sup>42</sup>Antony Anghie has shown how the principle of sovereignty was used as a means of subordinating colonised peoples: Anghie, *Imperialism* (n 7). Meanwhile, Deborah Whitehall, among others, has demonstrated how the radical scope of self-determination was constrained in the period in which former colonial states were declaring independence, severing it from its earlier meaning. Deborah Whitehall, “A Rival History of Self-Determination” (2016) 27 *EJIL* 719.

<sup>43</sup>Many of these were Germans and German-speaking immigrants in other Western countries. For example, Georg Jellinek, Lassa Oppenheim, and later Hersch Lauterpacht. A key influence was Immanuel Kant and his philosophy of cosmopolitanism.

<sup>44</sup>For an early example, see Anthony D’Amato, “Is International Law Really ‘Law?’” (1984) 79 *NorthWesternULRev* 1293.



treaties like contracts and their administration like the administration of a legal system".<sup>45</sup> This lawyerly "effort of becoming technical" has emphasised the legal over the political.<sup>46</sup> Consequently, there continues to be a shared belief in the neutrality of international legal principles and institutions in law schools of the Global North; often, this assumption of neutrality is reproduced in law schools of the Global South.<sup>47</sup> This also means that there is only rarely a declaration as to the pedagogical tools adopted, or the orientation taken. Whilst discussions on monist (direct applicability) versus dualist (applicability through domestic law) approaches to international law and discussions on conflicts between municipal and international law are prominent in hundreds of law schools around the world, there is typically very little space dedicated to the experience of international law in the locality from where it is taught.<sup>48</sup> The teaching of international law in former colonised states is mostly still undertaken in the materials, principles and in the language of the former colonial power as structured by what Joel Modiri calls the "Northbound gaze". This fixes, "the gaze of the scholar ... to the North, or the West ... [in] a supplicating gesture, seeking the validation of and assimilation into the terms and protocols of Western epistemological paradigms".<sup>49</sup>

In this standardised syllabus, there are, with notable exceptions, few variations in terms of teaching methods too.<sup>50</sup> The traditional way in which the syllabus is taught typically combines lectures with smaller group tutorials or seminars. When advocacy in the form of mooted is encouraged, it mostly takes place at large mooted competitions, which train students in a particular type of positive law advocacy before courts and tribunals.<sup>51</sup> The Jessup and Telders mooted competitions are the most widely known among advocacy competitions. Despite the diversity of places, people, and identities by whom and to whom international law is taught, the homogeneity in the teaching of international law was for us striking.

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<sup>45</sup>Martti Koskeniemi, "The Fate of Public International Law: Between Technique and Politics" (2007) 70 *ModernLRev* 1.

<sup>46</sup>*ibid* 2.

<sup>47</sup>Schwöbel-Patel (n 28). Although not concerning the teaching of international law specifically, it is important to note a longer history of critical pedagogy as emerging out of the Faculty of Law in University College Dar es Salaam, founded in 1961. It was here that a distinct "law in context" approach was first conceptualised as one that was to mirror the new independence of East African states. William Twining, among the founders of the law school, reflects on efforts of what can only be described as decolonising the law curriculum: "We tried to be sensitive to social, political, economic context: most of the law we taught was imported, but every doctrine, every statute, every case or other transplant had to be subjected to critical scrutiny: does it fit local conditions?" William Twining, *Jurist in Context: A Memoir* (CUP 2019) 61.

<sup>48</sup>For example, as argued by Fagbayibo in relation to the teaching of public international law across the African continent: Babatunde Fagbayibo, "Some Thoughts on Centring Pan-African Epistemic in the Teaching of Public International Law in African Universities" (2019) 21 *ICommLRev* 170. The exception appears to be at some of the universities in the settler colonies of Canada and Australia. For example, in relation to textbooks, see Sam Blay, Ryszard Piotrowicz and Martin Tsamenyi, *Public International Law: An Australian Perspective* (OUP 2005); Donald R Rothwell and others, *International Law: Cases and Materials with Australian Perspectives* (CUP 2018). In Canada, see, for example, the Indigenous Law Research Unit at the University of Victoria <[www.uvic.ca/law/about/indigenous/indigenouslawresearchunit/index.php](http://www.uvic.ca/law/about/indigenous/indigenouslawresearchunit/index.php)> accessed 19 April 2022. Even here though, this has not materialised into sustained reckonings with the ongoing injustices of settler colonial domination and their international legal dimensions.

<sup>49</sup>Joel Modiri, "The Time and Space of Legal Pedagogy" (2016) 27 *StellenboschLRev* 507, 518.

<sup>50</sup>For a different type of teaching method, see Fleur Johns and Steven Freeland, "Teaching International Law across an Urban Divide: Reflections on an Improvisation" (2007) 57 *JLegalEd* 539.

<sup>51</sup>See Wouter Werner, "Moot Courts, Theatre and Rehearsal Practices" in Lianne JM Boer and Sofia Stolk (eds), *Backstage Practices of International Law* (Routledge 2019) 157–73.

This is by no means to understate the critical voices that have played a key role in questioning both the “typical” curriculum in terms of structure and content as well as habitual teaching methods. Both students and educators have played a great role in contesting this curriculum, in particular by displacing teaching as a technical act and instead revealing teaching as a political act with formative force.<sup>52</sup> Indeed, that teaching is very much a political act (despite the mainstream insistence on its technical and apolitical nature) has come to light through pressures exerted within the “intensely political” confines of the law school,<sup>53</sup> as well as in the politics of university hiring and firing practices.<sup>54</sup> The restrictions on teaching and curriculum design do not stop there of course – the pressures of the “neoliberal university” as well as more generally late capitalist society have been problematised by some teachers of international law.<sup>55</sup> Those critical international lawyers who have experimented with bringing politics to the fore in their teaching of international law do this within the context of a call to greater reflexivity.<sup>56</sup> Reflexiveness includes the invitation to consider race, gender, sexuality, and class as under-acknowledged issues in the production and reproduction of legal knowledge. This recognition of international law as perpetuating exclusions and inequalities has highlighted the coloniality in international law and the institutions in which it is produced and reproduced. Understanding coloniality is the necessary pretext to *decolonisation*. In the following section, we consider the traditions of decoloniality that have their origins in a Latin American pedagogical movement.

## Decolonising knowledge

Discussions about how to decolonise knowledge have been ongoing for some time.<sup>57</sup> While a variety of critical legal scholars engage with *postcolonial* approaches, and a discussion on *anticolonial* approaches is emerging,<sup>58</sup> the project of *decoloniality* as a project with a particular history remains largely under-examined by lawyers and international lawyers alike.<sup>59</sup> Linguistic barriers for an English-speaking audience are real here as most decoloniality scholars wrote in Spanish and many continue to do so.<sup>60</sup> By no means do we seek to

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<sup>52</sup>Dianne Otto, “Handmaidens, Hierarchies and Crossing the Public-Private Divide in the Teaching of International Law” (2000) 1 MelbourneJIL 36, 40.

<sup>53</sup>David Kennedy, “Legal Education and the Reproduction of Knowledge” (1982) 32 JLegalEd 591.

<sup>54</sup>Two prominent examples relating to international law and Palestine are noteworthy here. First is the firing of Steven Salaita from the University of Illinois for his anti-Israeli tweets during the 2014 bombing of Gaza as detailed by John Reynolds, “Disrupting Civility: Amateur Intellectuals, International Lawyers and TWAII as Praxis” (2016) 37 TWQ 2098. Second is the failure to appoint Valentina Azarov for her well-known and critical stance towards Israel after she was selected to the post of Director of the Human Rights Program at the University of Toronto. See Masha Gessen, “Did a University of Toronto Donor Block the Hiring of a Scholar for Her Writing on Palestine?” *New Yorker* (New York, 8 May 2021) <[www.newyorker.com/news/our-columnists/did-a-university-of-toronto-donor-block-the-hiring-of-a-scholar-for-her-writing-on-palestine](http://www.newyorker.com/news/our-columnists/did-a-university-of-toronto-donor-block-the-hiring-of-a-scholar-for-her-writing-on-palestine)> accessed 2 March 2022.

<sup>55</sup>See for example Ntina Tzouvala, “The Future of Feminist International Legal Scholarship in a Neoliberal University: Doing Law Differently?” in Susann Harris Rimmer and Kate Ogg (eds), *Research Handbook on Feminist Engagement with International Law* (Edward Elgar 2019).

<sup>56</sup>For example, Johns and Freeland (n 49).

<sup>57</sup>As noted by Moosavi (n 20).

<sup>58</sup>There is no neat distinction between these terms but see usefully on anticolonial activity as forms of resistance against colonialism, Gopal, “On Decolonisation” (n 32).

<sup>59</sup>Some exceptions would be the work of Barreto writing mostly on international human rights law through a decolonial lens, such as José-Manuel Barreto, “Decolonial Strategies and Dialogue in the Human Rights Field: A Manifesto” (2012) 3 *Transnational Legal Theory* 1.

<sup>60</sup>The following volume brought together many of the earlier decoloniality contributions in English: Walter D Mignolo and Arturo Escobar, *Globalization and the Decolonial Option* (Routledge 2013).

create fissures between critical orientations towards international law. Rather, in our research on coloniality and decoloniality, we have encountered important questions of epistemology that we believe could enrich the discussion of decolonial approaches to international law. Differences between postcolonial and decolonial scholarship generally centre on the timing of their emergence, the location of their founders and their respective spatial and lineal points of attention. Rather than focus on “colonialism” (as a practice of the past), decolonial scholars stress the importance of “coloniality” as an epistemological and material condition informing both the past as well as the present.<sup>61</sup> Using coloniality as the central epistemic reference point reminds us that a complex matrix of control persists after any era of formal “decolonisation”.<sup>62</sup>

“Coloniality” and its inseparable terms, modernity, patriarchy, and rationality, were first used in Spanish by Aníbal Quijano in 1992. This was at a time when Cold War notions of decolonisation were being succeeded by decolonisation in the context of the “beginning of neoliberal dreams of final victory”.<sup>63</sup> During the early 1990s, scholars, particularly scholars in Latin America witnessing neo-colonialism in the form of structural adjustment programmes, came together in search of ways to bring about radical epistemological and political change through the notion of “decoloniality”.<sup>64</sup> Although it was a scholarly project, the key figures were deeply influenced by grass-roots Indigenous and feminist activism across the continent.<sup>65</sup>

We do not intend to counter-pose postcolonial and decolonial. Both decolonial and postcolonial scholars stress the importance of recognising how the interrelated phenomena of capitalism, colonialism, patriarchy, and modernity continue to structure global relations through a series of inequalities, particularly in relation to race/ethnicity, class, and gender. Yet while postcolonial scholars largely from South Asia and the Middle East tend to ground their contributions in cultural reappraisals of the nineteenth and twentieth centuries, decolonial scholars mainly hail from Latin America with its own earlier experience of European colonialism, “independence”,<sup>66</sup> and “dependence” – or “dependency”.<sup>67</sup>

As the most important concern of decoloniality scholarship is to think beyond a reality of seemingly universalised modernity, one important aspect is to shift the understanding of when and how modernity/coloniality arose. Such questions are particularly pronounced in debates about Third World “development”, as explored by Colombian-American anthropologist Arturo Escobar in his 1995 monograph, *Encountering Development*.<sup>68</sup> In a later survey of globalisation

<sup>61</sup>Ramón Grosfoguel, “The Epistemic Decolonial Turn” (2007) 21 *Cultural Studies* 211, 219.

<sup>62</sup>ibid 220.

<sup>63</sup>Quoting Walter Dignolo and Catherine Walsh, *On Decoloniality: Concepts, Analytics, Praxis* (Duke University Press 2018) 106. Quijano’s Spanish text is: Aníbal Quijano, “Colonialidad y Modernidad/Racionalidad” (1992) 13 *Peru Indígena* 11. This article only appeared in English translation 15 years later: Aníbal Quijano, “Coloniality and Modernity/Rationality” (2007) 21 *Cultural Studies* 168.

<sup>64</sup>These scholars are listed in Dignolo and Walsh (n 62) 8.

<sup>65</sup>Nelson Maldonado-Torres, “Colonialism, Neocolonial, Internal Colonialism, the Postcolonial, Coloniality, and Decoloniality” in Yolanda Martínez-San Miguel, Ben Sifuentes-Jáuregui and María Belausteguigoitia (eds), *Critical Terms in Caribbean and Latin American Thought: Historical and Institutional Trajectories* (Palgrave Macmillan 2016) 76.

<sup>66</sup>See especially Gurinder K Bhambra, “Postcolonial and Decolonial Dialogues” (2014) 17 *Postcolonial Studies* 115.

<sup>67</sup>For example, Francis G Snyder, “Law and Development in the Light of Dependency Theory” (1980) 14 *LSRev* 723.

<sup>68</sup>Arturo Escobar, *Encountering Development: The Making and Unmaking of the Third World* (Princeton University Press 2011).

thinkers, Escobar points to the grounding of modernity temporally and spatially in key European events of the Reformation, the Enlightenment, the French Revolution and the Industrial Revolution as “global moments of universal significance” rather than particular(ised), local experiences. Thus, the “power of Eurocentred modernity – as a ‘particular local history’ that has been universalised – lies in the fact that it has produced ‘particular global designs’ in such a way that it has ‘subalternised’ other local histories and their corresponding designs”.<sup>69</sup> The European experience becomes the only way of imagining the past and the future. Such parochialism rests on a radical erasure of other experiences and knowledges as well as the erasure of complex interactions across the globe beyond the neat confines of Europe and its other.<sup>70</sup>

These ideas are not exclusive to decolonial thinkers of course. Palestinian post-colonial cultural theorist Edward Said, for example, explored the self/other binary in detail in his influential book *Orientalism*.<sup>71</sup> Decolonial thinkers, however, distinguish themselves from postcolonial scholarship by disregarding the European intellectual heritage prevalent in postcolonial thought. In Said’s case, this is presented through his reliance on the work of Antonio Gramsci and Michel Foucault. Decolonial thinkers seek to advance alternative knowledges from outside European thought. Argentinian semiotician Mignolo has called this “border thinking”, which is: “the recognition and transformation of the hegemonic imaginary from the perspectives of people in subaltern positions”.<sup>72</sup> Although this aspiration is difficult to achieve as a method of academic research and teaching, it marks a key difference from many postcolonial contributions.<sup>73</sup>

It is important to note then that for scholars from Latin America, the place of the “other” first arose in 1492 with Columbus’ arrival in the Americas, and so this moment marks both the beginning of modernity/coloniality as well as resistance to it.<sup>74</sup> Coloniality therefore emerges in the particular socio-historical setting of the “discovery” and conquest of the Americas.<sup>75</sup> This “discovery” of the Americas along with the people there prompted Europeans to reflect on the nature of the (European, Christian) self, and the extent to which it was the same as the Amerindians. Nelson Maldonado-Torres, a Puerto Rican scholar of Caribbean studies, argues that:

[T]he Americas initially emerged in the imagination of the European as a zone of nonbeing, or a zone of not being entirely human. This mode of radical questioning about the humanity of colonised humans arguably introduced a new understanding and practice of

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<sup>69</sup>Arturo Escobar, “Worlds and Knowledges Otherwise: The Latin American Modernity/Coloniality Research Program” (2007) 21 *Cultural Studies* 179, 183.

<sup>70</sup>Gopal, “On Decolonisation” (n 32).

<sup>71</sup>Edward Said, *Orientalism* (Pantheon Books 1978).

<sup>72</sup>Walter D Mignolo, “The Many Faces of Cosmo-Polis: Border Thinking and Critical Cosmopolitanism” (2000) 12 *Public Culture* 721, 735–36.

<sup>73</sup>Especially see Asher’s thoughtful critique of the decolonial project particularly through the work of “post-colonial” feminist theorist, Gayatri Spivak: Kiran Asher, “Latin American Decolonial Thought, or Making the Subaltern Speak” (2013) 7 *Geography Compass* 832.

<sup>74</sup>Arturo Escobar, “Worlds and Knowledges Otherwise: The Latin American Modernity/Coloniality Research Program” (2007) 21 *Cultural Studies* 179.

<sup>75</sup>Nelson Maldonado-Torres, “On the Coloniality of Being: Contributions to the Development of a Concept” (2007) 21 *Cultural Studies* 240, 243.

colonisation. No longer do colonisers encounter subjects that are different in religious or ethnic status only; rather, colonisers perceive something analogous to an unbridgeable gap between them and the colonised.<sup>76</sup>

This gap would play out not only as the very tangible and brutal effects of European rule across the continent.<sup>77</sup> It also entailed the obfuscation of different ways of seeing and interacting in the world. According to Mignolo, European science would come to project itself as universal while the study of non-European peoples and their knowledges were examples of local and parochial “culture”.<sup>78</sup> The only way to be included in the universal project of modernity then was to suppress these alternative perspectives and, for those outside Europe, to embrace the promise of European civilisation. Most simply, this entailed the turn to and imposition of European religion, language and culture during and “after” colonial rule, producing a range of social classes that spanned a spectrum of more or less Europeanised natives. While “independence” for Latin American colonies in the nineteenth century suggested the possibility of bridging the gap,<sup>79</sup> internal social relations across the continent, along with persisting economic dependency and foreign imperialism, pointed to the material and epistemological challenges of realising emancipation.<sup>80</sup>

As already mentioned, postcolonial theorists have also thought extensively about the structuring binary of self/other; but, for decolonial theorists, this was only the beginning in their project of trying to overcome modernity/coloniality. It was imperative for emerging decolonial scholars to rely less on Western thinkers and instead to try to think of another world that was the result of partial and local knowledges and perspectives. Thus, decolonial thought takes seriously the basic feminist insight that all knowledge is situated.<sup>81</sup> For example, Mignolo is concerned with the geopolitics not only of knowledge, but of *knowing*, in his concept of “locus enunciations”. According to Mignolo:

[w]e can no longer talk about “epistemology” in general and then of “geo-epistemology” as a derivation of the first term. On the contrary, there is no general epistemology; every epistemology is geo historically located in the colonial matrix of power. By implication, the colonial matrix of power cannot be observed from outside of it.<sup>82</sup>

He suggests that we need to “focus on the knower rather than the known”<sup>83</sup> by asking “[w]ho and when, why and where is knowledge generated?”<sup>84</sup> From here, knowledge becomes *knowledges* and thus instead of seeking abstract universalism, decolonial

<sup>76</sup>Maldonado-Torres, “Colonialism” (n 64) 68.

<sup>77</sup>While emphasising the epistemic violence that was made possible after 1492, this is not to lessen the catastrophic human and ecological destruction that followed in Cortés’ wake. Indeed, it is hard to exaggerate this. It is estimated that up to 54 million people died during the first few decades after “discovery”, resulting in not only civilisational decimation, but its inscription in geological time such that the regrowth of flora during this period attests to decreased carbon levels in the earth’s strata. On this controversial “Orbis thesis”, see Gerard Delanty and Aurea Mota, “Governing the Anthropocene: Agency, Governance, Knowledge” (2017) 20 *EJSocTh* 9, 14–15.

<sup>78</sup>Walter D Mignolo, “Modernity and Decoloniality”, *Oxford Bibliographies* (2011) <[www.oxfordbibliographies.com/view/document/obo-9780199766581/obo-9780199766581-0017.xml](http://www.oxfordbibliographies.com/view/document/obo-9780199766581/obo-9780199766581-0017.xml)> accessed 2 March 2022.

<sup>79</sup>Arnulf Becker Lorca, *Mestizo International Law: A Global Intellectual History* (CUP 2014) 101–08.

<sup>80</sup>Maldonado-Torres, “Colonialism” (n 64) 73.

<sup>81</sup>Especially see Donna Haraway, “Situated Knowledges: The Science Question in Feminism and the Privilege of Partial Perspective” (1988) 14 *Feminist Studies* 575.

<sup>82</sup>Mignolo, “Modernity and Decoloniality” (n 77).

<sup>83</sup>Walter D Mignolo, “Epistemic Disobedience, Independent Thought and De-Colonial Freedom” (2009) 26 *Theory, Culture and Society* 159, 162.

<sup>84</sup>*ibid* 160.

thinkers suggest a turn to the “pluriversal” by engaging critically with a range of perspectives from the Global South.<sup>85</sup> Scholars such as Maldonado-Torres, Mignolo and Walsh therefore point to the activism of certain Indigenous and feminist struggles across Latin America as exemplars of striving “not only to survive, but also to create ‘another’ world”<sup>86</sup> by “living well” (or, *Vivir Bien*).<sup>87</sup>

Having set out some of the differences between postcolonialism and decoloniality, we nevertheless suggest it remains critical to emphasise where they overlap: both emphasise the importance of taking seriously the continuities and reiterations of colonialism – as events not in the past, but in the present. Moreover, both emphasise the “other”, pointing towards the racialisation of ethnic minorities in the Global South and the Global North and peoples in the Global South as objects of study rather than as agents. Both therefore seek solidarity in undoing inequalities of epistemological hegemony.

### Decolonising higher education pedagogy

How have these notions of creating “an-other world” through decoloniality travelled to higher education? And how can they be put into practice? Before we turn to contemporary examples of decolonising higher education, let us consider some of the thinkers who came before, and who have been influential in the university and beyond. One of the earliest pedagogues of decoloniality was Paolo Freire, a Brazilian thinker and educator.<sup>88</sup> Freire’s 1968 work *Pedagogy of the Oppressed* has been immensely influential for generations of educators and students alike.<sup>89</sup> Freire’s pedagogy is based on taking seriously those relationships of oppression that are enacted and reinforced through the imparting of knowledge in the classroom. Critical analysis is often actively discouraged in such relationships. For example, Freire outlines the commonly used “banking” concept of education, which tends to entail unidirectional learning from educator to educated, where “the scope of the action allowed to the students extends only as far as receiving, filing and storing the deposits”.<sup>90</sup> Freire suggests instead a pedagogy forged with and not for the oppressed.<sup>91</sup> This encompasses a decentring of the educator in favour of viewing the educated as also capable of *knowing*.

Influenced by Freire’s work, Portuguese decolonial socio-legal scholar, Boaventura de Sousa Santos describes the “abyssal line” that shapes modernity as epistemology. The abyssal line marks a distinction between those included by modernity through regulation and social emancipation versus those excluded in the colonies by appropriation and violence.<sup>92</sup> This includes the structuring, legitimating, and punitive capacities of law. Decoloniality here then requires us to recognise and explore the various ways in which

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<sup>85</sup>Grosfoguel (n 60).

<sup>86</sup>Maldonado-Torres, “Colonialism” (n 64) 76.

<sup>87</sup>For work on the “living well” movement, for example, see Paula Restrepo, “Legitimation of Knowledge, Epistemic Justice and the Intercultural University: Towards an Epistemology of ‘Living Well’” (2014) 17 *Postcolonial Studies* 140.

<sup>88</sup>For some reflections on the extent to which Freire’s thought is applicable to more recent decoloniality work on pedagogy, see Mignolo and Walsh (n 62) 88–96.

<sup>89</sup>Freire (n 12). For a refreshing application of Freire to legal education in the Global South, see Modiri (n 48) 518.

<sup>90</sup>Freire (n 12) 71. Gazzini speaks of “frontal teaching, 971.” as still the dominant approach to international law teaching in the classroom: Gazzini (n 16).

<sup>91</sup>Freire (n 12).

<sup>92</sup>Boaventura de Sousa Santos, “Beyond Abyssal Thinking: From Global Lines to Ecologies of Knowledges” (2007) 30 *Rev (Fernand Braudel Center)* 45.

the abyssal line structures epistemological, legal and pedagogical practices on both sides of the division. Yet while it may be easier for those working in “Eurocentric epistemic communities and research institutions”<sup>93</sup> to deconstruct modernity’s epistemological logics, Santos argues that the greater challenge lies in fostering positive change grounded in epistemologies of the South. A key aspect of this work of course lies not so much in the university as a research institution, but in the university as a forum of potential pedagogical resistance.

In his detailed examination of how to decolonise the university, Santos explores the interrelationship between epistemic modernity (that knowledge which can be regarded as valid knowledge within the progress narrative of Western thought) and the intensification of global capitalism as a key restriction to *decoloniality*. For Santos, the university is capitalist when “it has become a business corporation producing a commodity whose market value derives from its capacity to create other market values (e.g. diplomas that give access to highly paid jobs)”.<sup>94</sup> Both Mahmood Mamdani and Joel Modiri have advanced similar arguments about the university in the context of pronounced ongoing epistemic and material inequalities across the African continent.<sup>95</sup> In such a setting of extreme material constraints, it becomes ever harder for universities to nourish and champion counter-hegemonic and decolonial ways of seeing the world.<sup>96</sup>

Universities in both the Global North and the Global South have, however, increasingly been forced to confront their complicity in colonialism as well as coloniality, prompted particularly by the already mentioned Rhodes Must Fall movement. For example, in the US, the universities of Columbia, Georgetown, Harvard, Princeton and Rutgers – under pressure from activist student groups and a growing public debate about slavery – have published reports on their involvement in slavery.<sup>97</sup> The British universities of Cambridge and Glasgow have also acknowledged how they have benefited from colonialism.<sup>98</sup> Spurred on by student-led initiatives, London’s SOAS made a decolonising the curriculum “Learning and Teaching Toolkit” available for programme and module coordinators.<sup>99</sup> The toolkit includes a list of questions for conveners, such as whether a particular mindset or profile of student is presumed in the programme; to what extent the origins and purpose of the field of study are taken into account; and whether the syllabus allows for a critical approach to received or authoritative

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<sup>93</sup>Boaventura de Sousa Santos, *Decolonising the University: The Challenge of Deep Cognitive Justice* (Cambridge Scholars Publishing 2017) 342.

<sup>94</sup>Boaventura de Sousa Santos, *The End of the Cognitive Empire* (Duke University Press 2018) 272.

<sup>95</sup>For example, see, Mahmood Mamdani, “Between the Public Intellectual and the Scholar: Decolonization and Some Post-Independence Initiatives in African Higher Education” (2016) 17 *Inter-Asia Cultural Studies* 68; and his lecture: Mahmood Mamdani, “Mamdani Delivers Rousing TB Davie Memorial Lecture” (University of Cape Town, 22 August 2017) <[www.youtube.com/watch?v=vKFAYxf0SNO](http://www.youtube.com/watch?v=vKFAYxf0SNO)> accessed 3 March 2022. Also see Modiri (n 48) 518.

<sup>96</sup>Fagbayibo (n 47) 183–84. Also see Anaheed Al-Hardan, “Decolonizing Research on Palestinians: Towards Critical Epistemologies and Research Practices” (2014) 20 *Qualitative Inquiry* 61.

<sup>97</sup>See Craig Steven Wilder, *Ebony and Ivy: Race, Slavery, and the Troubled History of America’s Universities* (Bloomsbury Press 2014).

<sup>98</sup>“Cambridge University Launches Inquiry into Historical Links to Slavery” (University of Cambridge 30 April 2019) <[www.cam.ac.uk/news/cambridge-university-launches-inquiry-into-historical-links-to-slavery](http://www.cam.ac.uk/news/cambridge-university-launches-inquiry-into-historical-links-to-slavery)> accessed 2 March 2022; Stephen Mullen and Simon Newman, “Slavery, Abolition and the University of Glasgow” (University of Glasgow September 2018) <[www.gla.ac.uk/media/Media\\_607547\\_smxx.pdf](http://www.gla.ac.uk/media/Media_607547_smxx.pdf)> accessed 2 March 2022.

<sup>99</sup>Decolonising SOAS Working Group, “Decolonising SOAS: Learning and Teaching Toolkit for Programme and Module Conveners” (SOAS University of London May 2018) <<https://blogs.soas.ac.uk/decolonisingsoas/files/2018/10/Decolonising-SOAS-Learning-and-Teaching-Toolkit-AB.pdf>> accessed 3 March 2022.

texts.<sup>100</sup> On the initiative of a group of University of Kent educators and students, another valuable toolkit was published in 2020, “Towards Anti-Racist Legal Pedagogy: A Resource”.<sup>101</sup>

While a range of grassroots initiatives on university campuses and the inclusion of larger student numbers are noted as positive trends, Santos has been sceptical as to whether this translates into greater faculty diversity or significant changes to curricula and syllabi.<sup>102</sup> Racial and gender discrimination may be “easier to talk about now”, but this does not mean that they are being overcome.<sup>103</sup> This was affirmed most recently through Black Lives Matter movements at UK and US universities, which have pointed to persisting structural inequalities around gender and especially race in relation to curricula, as well as the administrative, support, academic and student composition of the university. Subsequently, a number of UK universities were keen to announce their recognition of race.<sup>104</sup> On the one hand this marks a welcome change; on the other hand it can also be read as a competitive move, prompted not so much by the acknowledgement of and desire to overcome different forms of racialisation within university structures, but rather, by the increasing pressure universities experience to distinguish themselves in a fierce and globalising higher education market.<sup>105</sup>

## Decolonising the international law curriculum

International lawyers have contributed greatly to debates around colonialism and global inequality, particularly through the increasing wealth of literature exploring the history of international law and how it structures the present. It is therefore surprising that such awareness has not yet produced deeper and more widespread discussions on the decolonising of the international law curriculum. While part of the reluctance from international law scholars on questions of decoloniality may be explained by professional fatigue and language barriers, we also need to consider the political economy of international legal education more generally. In the period following the Cold War, international law took on increased relevance specifically because of its liberal commitments to universality.<sup>106</sup> A key part of this new self-perception of universality was set against the background of a deeply ingrained disciplinary commitment to the idea of modern international law as existing *after* decolonisation. This left little

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<sup>100</sup>ibid 9.

<sup>101</sup>Suhrajya Jivraj, “Towards Anti-Racist Legal Pedagogy: A Resource” (September 2020) <<https://research.kent.ac.uk/decolonising-law-schools/wp-content/uploads/sites/866/2020/09/Towards-Anti-racist-Legal-Pedagogy-A-Resource.pdf>> accessed 3 March 2022.

<sup>102</sup>Santos, *Decolonising the University* (n 92) 310.

<sup>103</sup>For example, see Lola Okolosie, “No Wonder UK Universities Are Failing on Racism – Most Don’t Value Diversity at All” *The Guardian* (London, 8 July 2019) <[www.theguardian.com/commentisfree/2019/jul/08/uk-universities-racism-diversity-black-minority-ethnic-academics](http://www.theguardian.com/commentisfree/2019/jul/08/uk-universities-racism-diversity-black-minority-ethnic-academics)> accessed 3 March 2022.

<sup>104</sup>For example, in the wake of Black Lives Matter 2020, the University of Edinburgh launched a series of initiatives <[www.race.ed.ac.uk](http://www.race.ed.ac.uk)>. The question needs to be asked why this was not undertaken much earlier.

<sup>105</sup>Placing race and diversity at the forefront of university public relations campaigns aligns with Nancy Leong’s definition of racial capitalism as “the process of deriving social and economic value from the racial identity of another person, 2153”. Nancy Leong, “Racial Capitalism” (2013) 126 HLR 2151.

<sup>106</sup>Emmanuelle Jouannet, “Universalism and Imperialism: The True-False Paradox of International Law?” (2007) 18 EJIL 379.



space for ideas about decoloniality or even about race per se.<sup>107</sup> The notion of decoloniality therefore is in tension with, or even contradicts, some widely held assumptions within the discipline. The promise of international law rests on a claim to universality that aspires to embrace all peoples within a project of improvement and emancipation. The discipline tends to see itself in contrast to the sordid world of politics and parochialism.<sup>108</sup> A call to “decolonise” international law whether as scholarship or as pedagogy suggests that the field’s quintessential progressive moment – decolonisation in the era of the United Nations – *continued* rather than ended various structures of internationalised and legalised inequality.

A relatively recent body of scholarship looks critically at the teaching of international law and its implications for forms of knowledge production, even if rarely engaging with decolonial contributions.<sup>109</sup> For example, there is a strong contingent of critical international legal pedagogy work which came out of Australia in the late 1990s and early 2000s.<sup>110</sup> Of particular note are recent collaborative projects from the Global South, which aim to highlight coloniality in teaching practices of international law and to address epistemological blind spots. This includes the 2017 special issue of the *Revista Derecho del Estado* on Legal Education and International Law.<sup>111</sup> The authors reflect on the Eurocentric nature of the teaching of international law and the lack of local content and relevance, asking ultimately: What is the role of the international scholar in Latin America?<sup>112</sup> Furthermore, the 2018 conference on Teaching and Researching International Law in Asia (TRILA) also problematised the marginalisation of Global South epistemologies in the making of international law.<sup>113</sup>

In working towards a decolonised international law curriculum then, the first step must entail a consciousness about history, particularly histories of repression and resistance. In addition, a commitment to reflexivity for teachers of the subject is required. To complement the postcolonial approaches of foregrounding histories of colonialism, a decolonial approach would, we believe, include a willingness to question deeply entrenched pedagogical cultures reflexively, to address elisions of

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<sup>107</sup>For a study exploring the minimal presence of race within the pages of the *American Journal of International Law* see James Thuo Gathii, “Studying Race in International Law Scholarship Using a Social Science Approach” (2021) 22 *CJIL* 71.

<sup>108</sup>Anne Orford, “Embodying Internationalism: The Making of International Lawyers” (1998) 19 *AuYBIL* 1.

<sup>109</sup>Complementing efforts to decolonise the core law curriculum in the *Guerrilla Guides to Law: “Guerrilla Guides to Law Teaching”* (*Guerrilla Guides to Law Teaching*, 5 September 2017) <<https://guerrillaguides.wordpress.com/>> accessed 3 March 2022.

<sup>110</sup>Gerry Simpson, “On the Magic Mountain: Teaching Public International Law” (1999) 10 *EJIL* 70. Otto (n 51); Anne Orford, “Citizenship, Sovereignty and Globalisation: Teaching International Law in the Post-Soviet Era” (1995) 6 *LegalEdRev* 251. Cf al Attar who argues (to use Walsh and Mignolo’s terms) that these types of contributions are simply “Eurocentric critiques of Eurocentrism”: al Attar, “Must International Legal Pedagogy Remain Eurocentric?” (n 14) 189.

<sup>111</sup>Introduction to the special issue by Paula Andrea Acosta Alvarado, “REDIAL and Imperialismo y Derecho Internacional: An Opportunity to Reflect” (2017) 39 *Revista Drecho Del Estado* 3.

<sup>112</sup>For example, see Restrepo and Ríos for a comparative study of international law teaching approaches in Bogota, which points to the persistence of Eurocentric biases: Laura Betancur Restrepo and Enrique Prieto-Ríos, “Educación del derecho internacional en Bogotá: un primer diagnóstico a partir del análisis de los programas de clase y su relación con las epistemologías de no conocimiento” (2017) 39 *Revista Drecho Del Estado* 53.

<sup>113</sup>See also, “Teaching and Researching International Law in Asia (TRILA)” <<https://cil.nus.edu.sg/research/international-law-and-practice/>> accessed 3 March 2022.

other knowledge systems, and to introduce other (non-Western) knowledge systems into the discussion as enriching our understanding of the world. We propose four decolonial tactics.

### ***The tactic of accepting an “ecology of knowledges”***

In order to address the claim to universality that functions as a means of colonisation, Santos proposes an “ecology of knowledges”, where a variety of partial knowledges can sit alongside each other, thereby foreclosing claims to universality.<sup>114</sup> This requires a diversity of content and voices without being tokenistic.<sup>115</sup> Diversification of the literature in terms of race, class and gender is only a first step of decolonising; a critical appraisal of key international law concepts is also vital. A decolonial view therefore also requires a rethinking of the structure of the syllabus: doctrine ought to be taught in its historical, social, economic and cultural contexts.<sup>116</sup> The emphasis on a variety of “partial knowledges” that displace the universalisation of Eurocentric thought might be achieved by highlighting subaltern perspectives, such as those of American and Australian Indigenous peoples, before those of the dominant Western view.<sup>117</sup> Or it may be achieved by highlighting the (few) voices from the Global South within the centres of international legal education first. For example, an International Court of Justice (ICJ) case can be taught by first considering the separate opinions of Judge Weeramantry, where he endeavoured to speak to non-European legal traditions.<sup>118</sup>

When teaching the right to self-determination and statehood, one could consider a contextual entry into the topic, beginning with struggles for statehood, including, but without being limited to, the case studies of the Kurds, Biafra, Palestine as well as the struggle for Indigenous sovereignty in Australia.<sup>119</sup> The paradox of people struggling for full membership in an international legal system that has been complicit in oppressing them (and their ways of living and being) can be highlighted. We, for example, teach self-determination as a *principle* with a longer history, beginning in the early twentieth century,<sup>120</sup> which took on the form of a *right* in the 1960s, when it was employed during the period of decolonisation. We invite a discussion with our students on how self-determination was ultimately significantly narrowed, and emptied of its radical potential, through its use as a liberal legal principle. This is most starkly illustrated in the case of the United Nations Declaration on the Rights of Indigenous Peoples (2007) which only secured the backing of a number of African states once the right to Indigenous sovereignty was denied under Article 46(1).<sup>121</sup> An “ecology of knowledges”

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<sup>114</sup>Santos, *End of the Cognitive Empire* (n 93) ch 1.

<sup>115</sup>*ibid.*

<sup>116</sup>For example, see Kennedy (n 52).

<sup>117</sup>Especially see Judge Weeramantry's seminal separate opinion in the *Gabčíkovo-Nagymaros Project* (Hungary v Slovakia) [1997] ICJ REP 692 (25 September).

<sup>118</sup>Especially see his seminal separate opinion in the *Legality of the Threat of Nuclear Weapons*, Advisory Opinion [1996] ICJ REP 679 (8 July).

<sup>119</sup>In relation to the latter case, especially see Allan Ardill, “Australian Sovereignty, Indigenous Standpoint Theory and Feminist Standpoint Theory” (2013) 22 *GriffLRev* 315.

<sup>120</sup>Deborah Whitehall, “A Rival History of Self-Determination” (2016) 27 *EJIL* 719.

<sup>121</sup>Karen Engle, “On Fragile Architecture: The UN Declaration on the Rights of Indigenous Peoples in the Context of Human Rights” (2011) 22 *EJIL* 141, 146.

approach is able to highlight, and potentially remedy, the silencing of struggles for independence in the dominant literature on the right to self-determination favoured by a progressivist account of international law. Recent literature can be included from related disciplines that foreground “worldmaking” efforts of decolonising states,<sup>122</sup> and the dialogical and dialectical relationship between the insurgency of the periphery to the law-making of the metropole.<sup>123</sup> The advisory opinion of the ICJ regarding the Chagos Archipelago and decolonisation of Mauritius from the United Kingdom can be discussed as recent jurisprudence that highlights this narrowed form of self-determination.<sup>124</sup> A decolonial approach can highlight the largely Western commentary, the fact that key states involved in such cases instruct British barristers to represent them (including those from the Global South), and that opinions of international courts and tribunals ultimately tend to uphold the status quo ante, even if they employ a seemingly progressive terminology. The discussion of coloniality in the context of self-determination introduces other ways of knowing as a form of disrupting the dominance of Eurocentric epistemologies. Thus, the “ecology of knowledges” tactic opens up a forum for discussing previously silenced voices and ways of knowing.

### ***The tactic of “locus enunciations”***

The insight that we take from Mignolo on the situatedness of knowledge requires a positioning of international law within its particular teaching context. Put simply, place matters. For Amaya-Castro “it matters where you are from, what your cultural, social-economic, and ideological-political characteristics are. It matters because it contributes to how you perceive ‘the international’ and its relevance in general as well as in concrete situations”.<sup>125</sup> Amaya-Castro further argues that such consciousness of the local is a particular challenge for international law as much of its identity rests on being in opposition to the particular, the parochial. International law thus claims much of its “universal” authority from being situated nowhere, leading to its “emplacement paradox”: international law both depends on the local and is itself without location.<sup>126</sup> Yet this can be remedied through the practical endeavour of teaching: “If international law exists by virtue of its invocation, it can be said to exist in the classroom . . . Through the invocation of international law, the classroom becomes a site where the paradox of emplacement is enacted”.<sup>127</sup>

Such a “localisation” strategy is a surprisingly uncommon, and yet effective, way to teach (international) law. Distinct differences should then be visible in the universities of the former colonial powers, in countries with experiences of settler colonialism, or in sites experiencing other forms of colonialism. For example, when we first presented our collaborative project of decolonising the curriculum in 2018, we were attending

<sup>122</sup>Adom Getachew, *Worldmaking after Empire: The Rise and Fall of Self-Determination* (Princeton University Press 2019).

<sup>123</sup>Priyamvada Gopal, *Insurgent Empire: Anticolonial Resistance and British Dissent* (Verso 2019).

<sup>124</sup>Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965, Advisory Opinion [2019] ICJ REP 169 (25 February).

<sup>125</sup>Juan M Amaya-Castro, “Teaching International Law: Both Everywhere and Somewhere” in Juan Carlos Sainz-Borgo and others (eds), *Liber Amicorum in Honour of a Modern Renaissance Man His Excellency Gudmundur Eirikson* (Universal Law Publishing 2017) 522.

<sup>126</sup>ibid 523.

<sup>127</sup>ibid 529.

a conference in Manchester in the north of England. In order to take locus enunciations seriously, we included a reference to Manchester's role in the history of the industrial revolution and colonialism. We included a consideration of how a particular interpretation of European sovereignty (and superiority) led to "new" markets for imperial products which were traded in Manchester. This also included a brief discussion of wealthy Liverpool slave merchants financing Manchester's cotton mills, where workers were exploited. These material conditions played a role in how certain epistemologies were reproduced, not least through the establishment of the University of Manchester by a cotton industrialist (John Owens). Coloniality, as the contemporary continuation of these material and epistemological inequalities, is, we argued, visible in the silencing of epistemologies from the formerly colonised, so-called "developing" states. Equally, coloniality is traceable in the inequalities *within* Manchester itself. To tie this to international law, we referred here to the work of Antony Anghie in illuminating what work the principle of sovereignty has done in creating and sustaining these differences.<sup>128</sup>

The drive to localise international law through the classroom, however, becomes more challenging within the context of Covid-19, as it has necessitated the retreat to online teaching or blended forms of teaching.<sup>129</sup> The potential pedagogical *dislocation* that online learning entails makes the incorporation of locus enunciations more challenging, but also more important than ever. Online teaching can open up new spaces and opportunities for students, but a decolonial sensibility still calls on us as scholars and as students to situate ourselves in the university as a *particular* node within broader local, national and global networks of power/knowledge.

### ***The tactic of "dialogical teaching"***

An awareness of situatedness is also connected to a critical reflexivity of the privileges of the teacher. For a decolonised curriculum, a critical eye must be cast over the teaching body and whether it is sufficiently diverse in terms of gender, race, and class. Those reflecting on teaching law in the Global South often describe the phenomenon explained earlier as the "banking" approach, where knowledge is unidirectionally imparted.<sup>130</sup> For South African legal scholar Modiri, "[t]raditional legal education depicts the Law Teacher as the Expert, the one who has deciphered the Truth of law and legal reasoning and positions the Law Student as an empty vessel into whom formal legal knowledge is to be deposited and then recorded, memorised and mechanically applied to changing sets of facts".<sup>131</sup> Furthermore, former colonised jurisdictions tend to teach law not only through the banking approach, but also in line with the former colonies' legal system.<sup>132</sup> In a pedagogical landscape in which knowledge is historically deemed to emanate from Europe and then spread to the rest of the world, the "banking" approach to learning fixes oppression in place.

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<sup>128</sup>Anghie, *Imperialism* (n 7).

<sup>129</sup>For a discussion of online learning, see Robert Ovetz, "The Algorithmic University: On-Line Education, Learning Management Systems, and the Struggle over Academic Labour" (2021) 47 *Critical Sociology* 1065.

<sup>130</sup>For example, see Magid Shihade, "Education and Decolonization: On Not Reading Ibn Khaldun in Palestine" (2017) 6 *Decolonisation (Indigeneity, Education and Society)* 79.

<sup>131</sup>Modiri (n 48) 525.

<sup>132</sup>See for postcolonial India: BS Chimni, "Teaching, Research and Promotion of International Law in India: Past, Present and Future" (2001) 5 *SingaporeJlCompL* 368. For postcolonial Africa, see: C Mahalu, "Three Decades of Law in Context Approach" in Issa G Shivji (ed), *Limits of Legal Radicalism* (University of Dar es Salaam 1986).

By contrast, reflexiveness can translate into what Freire termed “dialogical teaching”. Freire suggests a “humanising pedagogy” that includes constant dialogue between those who typically impart knowledge and those who receive it. It is for both educator and educated a process of learning and knowing.<sup>133</sup> Dialogical teaching requires a making visible of that which is commonly hidden or deemed irrelevant in the classroom and the curriculum. It requires a rethinking of the traditional frontal teaching method, it requires a reconsideration of common forms of assessment,<sup>134</sup> and it requires a rethinking of the spaces of teaching. As a tactic in the classroom, this could mean revealing the “baggage” one carries whether as teacher or as student.<sup>135</sup> It also entails that as teachers we are willing to acknowledge our own limited knowledge and perspectives as well as our interest in learning from our students. Thus, rather than leaving all those things that make us unique individuals with certain desires, concerns, and interests at the door, we can instead recognise these qualities upon entering the teaching space.<sup>136</sup>

A possible classroom exercise of dialogical legal teaching, which one of the co-authors has introduced in her teaching, is a disruption of the common moot exercises.<sup>137</sup> Rather than an imitation of a courtroom experience, it favours a creative rethinking and rupturing of a trial. The students are first invited to reflect on those power structures that commonly remain hidden in moot competitions, and more broadly in courts and tribunals. Mooting competitions, with the Philip C. Jessup International Law Moot Court Competition being a prominent international example, are discussed as mechanisms of knowledge reproduction, disciplining students in the form of (colonial) advocacy. To counter this form of imitation and initiation, the students are invited to undertake a different type of simulation, namely one that follows the outlines of a “trial of rupture”, where structural biases are foregrounded instead of legal technicalities.<sup>138</sup> Students are invited to express the exclusionary aspects of a trial. These exclusionary aspects might involve reflections on the typical judge, on the type of language that is used in the courtroom, or the legal principles invoked. In an international criminal law moot, students are invited to rotate in their roles of judges, prosecutors, defendants, and defence lawyers. In the spirit of dialogical teaching, the educator facilitates rather than takes the position of a judge. This exercise tends to cause disorientation for some students; for other students it allows access to a courtroom experience that they would otherwise find exclusionary,

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<sup>133</sup>Freire (n 12) 379.

<sup>134</sup>Bejarano and Soderling argue persuasively against the disciplining of both students and faculty within a grading regime, which tends to be harshest for minoritised people. Drawing on Freire, they propose a form of feedback as “[s]haring information about a learning process” in a “classroom where the student is not a subordinate to the teacher but rather a collaborator”. Carolina Alonso Bejarano and Stina Soderling, “Against Grading: Feminist Studies beyond the Neoliberal University” (2021) 33 *Feminist Formations* 208, 226.

<sup>135</sup>Antoni Gramsci, *Selections from the Prison Notebooks of Antonia Gramsci* (Quintin Hoare and Geoffrey Nowell Smith eds, Lawrence and Wishart 1971) 36.

<sup>136</sup>Also suggested in Christine Schwöbel-Patel, “Teaching International Law Critically – Critical Pedagogy and Bildung as Orientations for Learning and Teaching” in Bart van Klink and Ubaldus de Vries (eds), *Academic Learning in Law: Theoretical Positions, Teaching Experiments and Learning Experiences* (Edward Elgar 2016).

<sup>137</sup>Disruptive mooting was first introduced by Christine at the University of Liverpool and then continued by her at the University of Warwick. In conversation with Wouter Werner at the VU Amsterdam, we initiated an anti-competitive experimental and disruptive mooting exercise with teams from Indonesia, Zimbabwe, Rwanda, and China in 2021.

<sup>138</sup>A lawyer famous for pursuing a “trial of rupture” approach was Jacques Vergès – consequently dubbed “terror’s advocate” or “devil’s advocate”. Jacques Vergès, *De La Stratégie Judiciaire* (Minuit 1981). See Christine Schwöbel-Patel, “Mooting: Advocacy, Litigation, Strategy” in Ilan Rua Wall and others (eds), *The Critical Legal Pocketbook* (Counterpress 2021).

alienating or intimidating. Apart from making visible political allegiances that tend to be hidden in the classroom, this form of dialogical teaching can lead to interesting discussions about form and process, such as how much form and process must be maintained, even in a “disrupted” courtroom.

### ***The tactic of troubling a “pedagogy of absences”***

Finally, and relatedly, a decolonial approach to teaching could include what Santos refers to as a “pedagogy of absences”.<sup>139</sup> This is:

geared to showing the measure of epistemicide caused by northern epistemologies and their monopoly on valid and rigorous knowledge, and the waste of social experience thereby produced.<sup>140</sup>

A view to absences (“epistemicide” as the extermination of existing, often Indigenous, knowledge systems) reveals those ways of knowing and being that are typically considered irrelevant or backward; and it explores how such absences are “actively produced”.<sup>141</sup> Translated to the international law curriculum, a “pedagogy of absences” requires that we consider the silences in a mainstream curriculum and our inability to imagine alternatives. It might include considering the absence of what Hilary Charlesworth has called an “everyday international law” or considering Global South alternatives such as Mahatma Gandhi’s notion of a world federation.<sup>142</sup> Questions to be discussed with students might include: Why is it that the visceral, the physically violent dominate our thinking about crises in international law? Why is it that the rise of international economic law and international investment law is coterminous with the decline of questions about social and economic justice in international law? Can we imagine a post-statist world to address contemporary climate and migration challenges? How might we imagine a curriculum that can speak to the rich and varied experiences of international law as a quotidian practice both in the classroom and beyond? Again, the attention to absences goes beyond a mere diversification, and instead enters the realm of “un-knowing”, or, of decolonising the mind.

A practical question, commonly raised by the sceptic of decolonial approaches, is one of limited *time* for both heterodox as well as orthodox views.<sup>143</sup> In other words, does a decolonised curriculum automatically involve an expanded, even bloated, curriculum? Or conversely, does it mean a compressed or diminished curriculum of “tasters” of concepts and cases? In our experience, this is not the case. As an educator,

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<sup>139</sup>This is related to his idea of the “sociology of absences”, which he defines as “the inquiry into the ways colonialism, in the form of the colonialism of power, knowledge, and being, operates together with capitalism and patriarchy to produce abyssal exclusions, that is, to produce certain groups of people and forms of social life as non-existent, invisible, radically inferior, or radically dangerous – in sum, as discardable or threatening. Such an inquiry focuses on the five monocultures that have characterised modern Eurocentric knowledge: valid knowledge, linear time, social classification, the superiority of the universal and the global, and productivity.” Santos, *End of the Cognitive Empire* (n 93) 25–26.

<sup>140</sup>Santos, (n 86) (2017) 373.

<sup>141</sup>ibid 374.

<sup>142</sup>Hilary Charlesworth, “International Law: A Discipline of Crisis” (2002) 65 *ModernLR* 377; Gandhi’s world federation idea was recently invoked by BS Chimni in the context of the 2018 Conference on Teaching and Researching International Law in Asia (TRILA): BS Chimni, “Teaching and Research in International Law in Asia: Some Reflections on the Way Forward” 10 <<https://cil.nus.edu.sg/wp-content/uploads/2018/07/CHIMNI-TEACHING-AND-RESEARCH-OF-INTERNATIONAL-LAW-IN-ASIA-23-MAY-2018.pdf>> accessed 4 March 2022.

<sup>143</sup>We have come across this concern in many discussions on decolonisation in formal and informal settings, and thank one of the anonymous reviewers for raising this concern so we could address it here. Compare also a discussion of this point in Schwöbel-Patel 2016 (n 135).

one can open with discussions of a judgment of the World Court one week, say the judgment of the *Case of the SS "Lotus" (France v Turkey)* on sovereignty;<sup>144</sup> and then, in the following week open with, say, a feminist rewritten judgment, for example the same case rewritten as the *Bozkurt Case*.<sup>145</sup> Equally, one might open a discussion about sovereignty with a reference to Indigenous sovereignty and then contrast this with Westphalian concepts of sovereignty.<sup>146</sup> Setting priorities for discussion is a requirement for any syllabus, whether colonised ("traditional") or decolonial.

## Conclusion

To conclude, we have proposed an additional body of thought that may enrich and deepen the debates and practices of decolonising international law that have already begun. The tactics that we have chosen emerge from an important body of scholarship and praxis on coloniality and decoloniality that originated in Latin America. This body of scholarship is, in our view, enormously helpful for considering the decolonisation of curricula as it centres on epistemologies. This literature allows us to raise questions such as where knowledge is produced and reproduced, and which kinds of knowledge about the world are silenced. That is not to say that these tactics are a blueprint for decolonising. They include blindspots, just as we ourselves continue to encounter our own blindspots. Nevertheless, we believe that a rich debate on decolonising in international law, that builds on TWAIL traditions and other critical traditions is a moment of opportunity.

As many of our students have experienced exclusions and silencing due to their race, class, gender, sexuality, or disability, a tackling of epistemologies allows for a richer understanding of how the benefits and burdens of societies were and continue to be distributed unevenly. The tactics we propose aim to take seriously the classroom as a place to better understand the inequalities and social injustices in the world and the role that (international) law plays in perpetuating them. This allows for a deeper understanding of the past and a richer discussion of possible futures.

A curriculum that takes coloniality and decoloniality seriously opens up a space to reflect on the usually hidden assumptions in how knowledge is (re)produced, disseminated and legitimised. Such a curriculum opens up the opportunity of moving away from the concerns of the oppressor to thinking about the interests of the oppressed.

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<sup>144</sup>SS Lotus (France v Turkey), 1927 PCIJ (ser A) No 10 (7 Sept).

<sup>145</sup>Christine Chinkin and others, "Bozkurt Case, aka the Lotus Case (France v Turkey): Ships that Go Bump in the Night" in Loveday Hodson and Troy Lavers (eds), *Feminist Judgments in International Law* (Bloomsbury 2019).

<sup>146</sup>Glen Sean Coulthard, *Red Skin, White Masks: Rejecting the Colonial Politics of Recognition* (University of Minnesota Press 2014); Harald Bauder and Rebecca Mueller, "Westphalian Vs. Indigenous Sovereignty: Challenging Colonial Territorial Governance" (2021) *Geopolitics* (forthcoming).