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The many layers of invisible labour in decolonising the academy

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On the ground floor of the David Williams Building, home to the Faculty of Law and Squire Law Library of the University of Cambridge, you will find a confronting constellation of pictures of the Law Faculty teaching staff. I once stood in front of it, searching for non-white faces. They numbered two. For non-white, non-European students like myself, awareness of hegemonic eurocentrism in legal education did not hit home while reading critical race theory or TWAIL. It came simply in feeling out of place. As Ahmed Memon and Suhraiya Jivraj write, "it is no surprise that students experience a sense of dysphoria rather than belonging, without ostensible institutional support and few staff of colour". In a forthcoming article, Luis Eslava extends that feeling of being out of place, so familiar to my first few months at Cambridge, to describe a constructed disciplining category in which 'most of the world' finds itself, when subject to the stable, positivist rules of the eurocentric international legal order.

While it is expected that an English institution would focus on teaching English law, my English legal education stoutly refused to engage with the legacy of empire where there was a clear nexus – a glaring omission for international students or diaspora from ex-colonies. Against the apolitical, positivist logic of the law school, I and several others struggled for the space to unpick the relationship between law in the books and practice, and protection of neoliberal capitalism, colonialism, and whiteness. The canon could not be sufficient to understand the violence and exploitation that law legitimated, and sometimes wrought. Having access to alternative voices from the critical legal studies movement, TWAIL and Critical Race Theory, amongst others, provided the theoretical foundations for an answer to be worked out. I write this piece as a reflection on the invisible labour my comrades and I engaged in to challenge the canon in the institution at which it was defined.

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Much ink has been spilled about the invisible labour that racialised and LGBTQ+[1] faculty members shoulder (see here, here and here). In recent months, legal scholars have also been chiming in with their own critical reflections on the theory and practice of their profession. Some of my own favourites include Rohini Sen's The Predicated Pedagogue, Antony Anghie's Critical Thinking and Teaching as Common Sense, and Mohsen al-Attar's Confronting the Racism of International Law. But particularly in the Global North, what are non-white students to do when there is no one to look to in the Faculty directory, no one standing behind the lecture podium that looks like a potential ally? The task of solidarity and critical reflexivity is wholly foisted upon students instead. Less, then, has been said about the invisible labour that students engage in through their own work: the process of learning.

Learning the canon, and becoming an undergraduate apostate

As a first-year Law student, I joined a group of undergraduates and postgraduates convened by my friend ning-sang. The agenda was to have an open conversation about the need to decolonise the Law Faculty, and what that would look like. It was 2017 and an open letter calling for the Faculty of English to decolonise had resounded across faculties: there was a need for greater diversity in teaching staff and a sea change in the present canonical curriculum. The letter hit upon an untapped frustration that everyone in that room had experienced. Even in a jurisdictionally grounded course like law, the need to reckon with colonial history was imperative. Epistemic integrity required us to understand the colonial logic that informed English legal thinking.

We talked about the ways we found legal education at Cambridge to be unsatisfying, disturbing or downright oppressive. Many of us had encountered microaggressions as non-white, non-European students in supervisions. We were frustrated at the blatant gaps in explanations of how the common law operates – why, for example, are judgments from Hong Kong and Australia 'of persuasive value but not binding'? Something as simple as the exportation of common law as a purported 'benefit', or even justification, of the colonial project had been glossed over. Such questions lingered at the back of our minds but were never addressed in our long reading lists. Lectures, too, were oftentimes intellectually inert: black letter law was handed down to us mere mortals, with little attempt at having a democratic conversation with us students.

However, when it came to planning for real curricular change, we – the Decolonise Law Working Group, as we later called ourselves – were at a loss. Even the keenest preparedness to approach legal education with a theoretically critical attitude is quickly rendered nugatory without guidance and a baseline level of knowledge. Somehow, even in our small gathering of supposedly subversive students and scholars, Duncan Kennedy's prophecy in 'Legal Education as Training for Hierarchy' held

[1] This acronym is by no means exhaustive, and its use is contested. A more inclusive acronym would be LGBTQIA2S+, which stands for Lesbian, Gay, Bisexual, Transgender, Queer/Questioning, Intersex, Asexual, Two Spirit, and beyond (indicated by the + sign). I use LGBTQ+ in this piece to reflect its common use in the contexts I am most familiar with: the UK and Singapore.

partially true: the same individuals who sought to erode a passive attitude toward the content of the legal system, were products par excellence of a passivising classroom experience. As Kennedy writes:

> [i]t would be an extraordinary first-year student who could, on his own, develop a theoretically critical attitude towards this system. Entering students just don't know enough to figure out where the teacher is fudging, misrepresenting, or otherwise distorting legal thinking and legal reality.

This initial position of confusion can easily perpetuate what Paulo Freire calls the 'banking method' of education - an exercise in reception, retention and regurgitation without room for critical reflection or questioning. This mode of pedagogy serves the neoliberal law school and its professional ideology well. Law schools are sites of training for patterns of hierarchy and domination that are replicated in the legal professional world. The quid pro quo is simple enough, and tempting: law students absorb the unrelenting deposit of information, and in return they are offered lucrative jobs at top firms in London.

Carving out decolonial space in the Law Faculty

I had looked forward to taking international law as a subject, believing there could be no room for hiding from law's political geography there. Instead, the introductory series of lectures glossed over the story of how international law came to be, with a mere passing mention of the Treaty of Westphalia, and plunged us straight into an exposition of the sources of international law. There was little room for understanding, and thus critiquing, nebulous principles like sovereignty. Our education in international law, as with the rest of our legal education, was in exacting scrutiny, and expected mastery, of the rules that make up the system. Paradoxically, it seemed that critical discussions about contemporary issues of international law, such as the Iraq War, were peripheral to our understanding of its ahistorical, timeless system of rules. According to my worn copy of Shaw's *International Law,* decolonisation was a political fact – achieved through UN Resolution 1514 (XV). The language of 'civilisation' was introduced to us without opportunity to interrogate it, while the term 'eurocentrism' was nowhere to be found on my lecture notes. It was only through doing my own reading that I came across the ideas that articulated my deep discomfort with the subject, and my course as a whole.

For some, the intellectual and emotional frustration of having one's noble (albeit naive) convictions of the law as a progressive, equalising force repeatedly come up against cold granular doctrine is cause for pause. Some of us get to organising, as the Decolonise Law Working Group in Cambridge did, with varying levels of institutional support. Similar student-initiated movements have taken root elsewhere, such as Strathmore Law School, SOAS and McGill Law School. In those institutions, there was either institutional impetus or faculty staff who were willing to expend time and energy to guide the students in their work. Students are dependent on the invisibilised, unpaid labour of generous staff. In institutions where a spider's web of bureaucracy places innumerable obstacles to getting anything done (such as Cambridge), whether it's putting flyers up or booking a room, the support of faculty is indispensable.

The Decolonise Law Working Group met with a faculty course review committee, organised speaker events (attended by Faculty members themselves), and participated in Decolonise Assemblies at which working groups shared strategies in engaging with their respective faculties. We received neither funding nor support from the Faculty of Law. We relied on the goodwill of external academics who came to speak at our events, being unable to provide honoraria or even reimburse their travel costs. The time and energy those academics afforded us was another layer of invisible labour: without any official affiliation with the University of Cambridge Faculty of Law, all we could offer was the deep gratitude of a few intellectually dissatisfied students.

These few students who continued to muster energy to contribute to the Decolonise agenda did so on top of undertaking the formidable task of doctrinal mastery required in weekly supervisions and essays, while also pursuing their own further reading to critique the eurocentric view of law they are taught and enrich their answers to the perennial question from classmates and teachers, 'Why decolonise *English* law?'. Students and faculty who undertake decolonial work in the academy, particularly at a prominent institution, also take on the risk of public scrutiny and criticism: in 2017, Lola Olufemi was slandered in UK national press for penning the above-mentioned open letter to the Cambridge Faculty of English. In 2020, Priyamvada Gopal, a professor in English at Cambridge, went public with a barrage of hate mail she received after tweeting criticism of a 'White Lives Matter' stunt pulled at a football match. The treatment Olufemi and Gopal received was explicitly sexist and racist: the persistence of such bigotry in the UK should precisely be the impetus for centering decolonial thought in the academy.

Decolonisation and resistance of neoliberal ethos

In the initial months of decolonial organizing, I was often frustrated with the lack of support we received from faculty staff. I now understand the pressures incumbent upon early-career academics, particularly those of Black, Asian, Minority and Ethnic (BAME)/non-white backgrounds and on precarious contracts, that might prevent them from participating in the type of critical pedagogy that the Decolonise Law Working Group sought to align itself with. The fact that I had two Black lecturers in three years of legal education, across 14 subjects and one seminar, is testament to that. And, as I spoke more to faculty staff about what the Working Group hoped to achieve, I realised that the lack of faculty support was not for lack of interest. With a heavy workload, casualised contracts and declining pension contributions placing strain on the mental health and material welfare of many of its research and teaching staff, the opportunity cost of expending emotional and intellectual labour on endeavours that go beyond their strict job scopes is correspondingly high. As Jay Subramaniam writes, the choice to adopt critical pedagogy is always tempered by reactionary responses of university administration or more senior members of the faculty. For some teachers, resistance in the institution can only be through survival.

Once I became acquainted with the idea of neoliberalism, it was difficult not to see it everywhere in the university. Its central premise is the promotion of competition to create, expand and sustain

markets in every area of private and public life. But promoting such competition already treats the metrics by which the competition is defined as a foregone conclusion. Adelle Blackett, writing about the student-initiated seminar at McGill Law School that later became its Critical Race Theory course, notes that the initiative risked a neoliberal turn. Professorial hiring continued to place emphasis on ensuring that colleagues had recognised expertise in the mainstream, while professorial guidance and mentorship of the student-initiated seminar remained unacknowledged. It was not lost on me that the student leaders, who "put energy, experience and considerable time into galvanizing support for their initiative", who designed the course and led it "without remuneration and without specific training", also *paid to take the course*. Tzouvala writes that in the increasingly neoliberal higher education market, students are rebranded as 'consumers', and education a service that must be tailored to their demands. This was underscored at a meeting the Decolonise Law Working Group had with a course review committee, when it was explained to us that the possibilities of assessment reform were circumscribed by the students' expectations: that they would be able to graduate from a prestigious institution with a gleaming first class degree, in exchange for paying £9,000 a year in tuition fees.

Pursuing decolonisation of the university inevitably leads to questions that extend beyond the university. The #feesmustfall campaigners in South Africa explicitly recognised the relationship between decolonisation and challenging neoliberal ideology. To resist the neoliberal ethos of the academy as a student is to practice a double existence: on the one hand, striving to challenge the banking-centric pedagogy and its attendant expectations of student performance; on the other, being held to those same standards.

The power and universality of this neoliberal ethos is such that it can be internalised by both European and non-European, coloniser and ex-colonised. Paired with the over-emphasis on law as a purely vocational degree, efforts at creating a decolonial space within the Law Faculty were received with skepticism and sometimes disdain by other law students, who saw the project as purely theoretical and with little practical relevance to their professional training. Indeed, our most aggressive critics were from international students who saw the project as an attempt to destabilise the legal order of our common law motherland (in which they hoped to snag a job). It is in this context that Rahul Rao suggests that the university can never be fully 'decolonised': at best, the path of decolonial organisers is "to abuse its hospitality, to spite its mission, to join its refugee colony, its gypsy encampment, to be in but not of".[2] Memon and Jivraj (2020) write that carving decolonial spaces in the white, colonial university is enacted through resistance against its neoliberal institutional logic, including and especially solidarity between staff and students. Sadly, this was not something I experienced – perhaps because I did not yet fully appreciate what we as decolonial organisers were trying to resist.

Decolonial work as intellectual and emotional labour

[2] Rahul Rao, 'Neoliberal antiracism and the British University' *Radical Philosophy* 2.08, accessible at https://www.radicalphilosophy.com/article/neoliberal-antiracism-and-the-british-university#fn5, quoting from Fred Moten and Stefano Harney, 'The University and the Undercommons: Seven Theses' (Summer 2004) 22:2 (79) Social Text, at 101.

As a decolonial student thinker, I often felt as though I was grabbing at thin air for the theoretical foundations of our work. The few academics who took an interest in the work we did tended to be visiting fellows (and thus held less purchase in the impenetrable institutions of Cambridge). I remember having coffee with one, a kind Marxist international relations scholar, who advised that I was barking up the entirely wrong tree in trying to get a seat at the table and reform reading lists. We could not discuss the imperialism of international law without discussing its role in securing capitalist interests.

Buried in contract law readings on the requirement of consideration and 'commercial certainty', I had never felt the co-dependence of capitalism and colonialism impressed upon me so explicitly. Colonialism was at best an interesting subplot in the grand narrative of international law. The influence of capital flows and the need to protect European commercial interests, secured through imperial expansionism, did not figure into our understanding of international law at all. The teaching of law in a historical and political vacuum had left me ill-equipped to appreciate that epistemic coloniality is inextricably bound up with market-thinking and the rhetoric of 'modernity'. Had we confronted the racism and capitalism bound up in imperial logic, discussing the role of international economic law and the law of the use of force would have been necessary and related conversations, rather than disparate topics to study for an essay question Further, I had yet to comprehend the task of decolonisation in terms of epistemological spatialities of the 'centre' and 'periphery', and thus did not have the language to articulate that while having a seat at the table was part of our project, it could not stop there. I left feeling confused and despairing that I'd ever understand the enormity of the task I had somehow undertaken.

In a recent conversation with a friend who continues to organise with the Working Group (now called Decolonise Law Cambridge), he related explaining to the professor of his seminar that the very fact that repeatedly justifying the teaching of TWAIL was still necessary betrayed the underlying pedagogical belief about what is considered 'serious' international law, and what is relegated to the periphery. As a fellow Decolonise organiser Jonathan Chan writes in *Varsity*, Cambridge's student-run paper, "It should not be incumbent upon the student body to educate their educators, not least when the work of decolonisation is sustained almost entirely by non-white students". It is unquestionable that the oppressed should be in charge of their own liberation, Freire also emphasises that liberation is a mutual process, facilitated by a democratic relationship between teacher and student. But the separation of staff and students in the neoliberal university cultivates mistrust (Memon and Jivraj 2020), making it difficult for staff and students to engage in a collaborative didactic process.

To do decolonial work as a student is to perform the role of student-learner and student-facilitator simultaneously. It is having to continually explain to teachers and fellow students how structural and epistemological violence continues to be done through a eurocentric, positivist law syllabus and white, male-dominated law faculty. It is having to repeatedly justify the need for decolonising. It is the invisible labour of subjecting ourselves to scrutiny to ensure our own intellectual honesty. Although students spurring the decolonial effort may not all be dispossessed of land, we cannot afford for

decolonisation to be turned into an empty metaphor. It is above all the struggle to locate ourselves as individuals, the ultimate subject(s) of international law, within its imperial framework.

Therefore, the intellectual labour of decolonial work is necessarily emotional, too. Research from institutional theory has linked the work of challenging dominant institutional logics with emotional labour: the repression of emotional response to setback, the need to draw on emotional energies to display resilience, and experiencing alienation within the institution. In order to engage in decolonial work, non-white people (often former colonial subjects) must sanitise their encounters with institutions of the Global North and learn to traffic in the language of the Western academic elite.

On the other hand, when decolonisation efforts enrich the intellectual life of the academy, as I frequently saw in my three years at Cambridge, such initiatives become susceptible to co-optation - the insurgency of such events is neutralised, the emotional labour of resistance unacknowledged. Research fellows and postgraduate students who attend events organised by other Decolonise working groups across faculties, from Politics to English, are frequently surprised when they learn that neither the events nor their organisers have any affiliation or support from the faculties. Instead, if or when external recognition comes knocking, the institution gets to celebrate "how far we've come", without acknowledging the labour of students and faculty members who have taken on personal cost to effect that change.

Many persons of colour emerge from the struggle for self-location in a Global North institution with scars. Not every individual who writes about critical approaches to our subject has the privilege of academic distance. For students and faculty who carry the trauma of colonisation in their bodies and personal histories, the weight of emotional labour is doubly heavy. My friend ning-sang was targeted early on once she commenced organising toward decolonisation of the Law Faculty. Recognising that she was "labouring for a system that is actively invalidating [her] existence", she chose to intermit and then eventually leave Cambridge. Her parting words to the name and institution that so often evoke reverence in others are a searing indictment:

> Racism and sexism are not to be understood in terms of individual or corporate acts or attitudes – they are structural, historic, embedded. To succeed as a student at Cambridge requires one to ally with the interests of whiteness and patriarchy. For women of colour, the cost of this alliance is nothing short of complete destruction of any meaningful, positive conception of self.

It may be that the emotional labour of such work is unavoidable. After all, the process of learning is meant to expand one's imagination, requiring us to grapple with new ideas and new language. I would go so far as to say that, in a co-intentional learning environment, emotional labour is *required* - but it is required of *both* teachers and students as they participate in transformative, dialogic interaction within the classroom, and against the neoliberal academy. What must be underscored is that when institutions are resistant to change, the burden of labour is externalised to students working to dismantle the

hierarchy of knowledge currently observed in our curriculum and faculty. The cost of that labour is often untold and too painful for any academic theory to ever redeem.