



THIRD WORLD APPROACHES to INTERNATIONAL LAW *Review*

TWAAILR: Dialogues ~ September 2021

Meltdown!

International Law Praxis During Socio-Ecological Crises

Julia Dehm, Carmen Gonzalez & Usha Natarajan respond to four questions about academic praxis and the role of the international lawyer in a time of systemic social, economic and ecological meltdown. This keynote was organized by Rose Parfitt, Luis Eslava & Marcus Gunneflo, co-directors of the International Law & Politics Collaborative Research Network, at the 2021 Law & Society Annual Meeting on 27 May 2021.

1. What does meltdown mean to you? What is a meltdown? How does it relate to your work?

Julia Dehm: I speak from the lands of the Wurundjeri peoples of the Kulin nation. Their land was stolen and their sovereignty never ceded. I pay my respects to their elders past and present. This acknowledgement and the responsibility such an acknowledgment gives rise to is fundamental to my personal ethics, my scholarly concern, and my methodological choices.

Meltdown recalls images of crumbling icebergs – collapsing colossal towers of frozen water familiar in depictions of climate change – but such images are only symptoms. In this conversation we move away from the effects of ecological crisis to think about underlying causes in structural and holistic ways. This basic definition from Oxford Languages raises three observations with which to think through the term meltdown:

 **meltdown**

/ˈmɛltdaʊn/

noun

noun: **meltdown**; plural noun: **meltdowns**

1. a disastrous collapse or breakdown.
"the global financial system suffered a major meltdown"
- INFORMAL
an uncontrolled emotional outburst or a mental collapse.
"the story will revolve around her meltdown following the accident"
2. an accident in a nuclear reactor in which the fuel overheats and melts the reactor core or shielding.



The first meaning, 'disastrous collapse or breakdown' and the example provided, highlights the system-wide nature of catastrophic collapse. We see this as average temperatures rise beyond the range that sustained human life for 10,000 years. As biodiversity destruction creates conditions for diseases such as COVID-19 and other novel pathogens that spread from animals to humans, bringing the world to a standstill. However, this grammatical formulation talks only of the object suffering meltdown, with causes obscured, but thinking critically requires that we identify and name root causes. The example is lacking too in its suggestion of collapse and breakdown as a unitary phenomenon, when impacts of economic and ecological crisis are disproportionately borne by those marginalized and oppressed. Thinking critically requires that we identify and name these unequal impacts.

Coming to the second definition, just as the risk of nuclear meltdown from fuel overheating is a product of the technology inherent in the reactor system, the ecological crisis is a meltdown that is latent in the system. Ecological crisis is inherent in capitalism's drive for ever expanding accumulation. It is inherent in notions of what constitutes 'productive' land use, providing legal rationale for dispossessing Indigenous peoples, stealing land, and settler colonialism. It is inherent in forms of dehumanization that produce racialization and racial hierarchies. Recognizing the ecological crisis as a meltdown whose causes are endogenous rather than external to the system makes the need for fundamental and widespread change clear.

Lastly, the 'informal' definition poses the urgent question of why, when things are so dire, we aren't all collectively having the sort of meltdown or 'uncontrolled emotional outburst' that would make us truly ungovernable, and compel a pause to the violence

of the day-to-day? What would it look like if, like a toddler having a meltdown, we simply refused to cooperate? Instead, many seem to be having private meltdowns, especially over the past year as the pandemic exponentially increased gendered and unrecognised reproductive labour, and increased precarity and workloads in academic institutions that plan more rounds of reform and budget cuts. These pressures alongside deep ecological crisis lead many of us, unsurprisingly, to have a sort of personal 'mental collapse'. What would it take for us to find ways of responding collectively and politically to this conjuncture, rather than privately and personally, and have the kind of public meltdown that makes the ongoing violence of the day to day impossible? That is, to have the sort of meltdown of resistance commensurable with the gravity of systemwide collapse and its systemic causes?

Carmen Gonzalez: This is a time of intersecting ecological, economic and social meltdowns. First, the ecological meltdown. In the name of development, the world's most affluent humans have disrupted the climate, destroyed forests, polluted air and water, produced unprecedented rates of species extinction, depleted freshwater supplies, degraded soil, damaged the ozone layer, overexploited fisheries, dumped plastic waste in oceans, and rendered land unfit for human habitation. The consequences are unprecedented hurricanes, wildfires, droughts, floods, locusts, crop failures, pandemics, death, disease, and growing numbers of people without access to basic necessities. We are destroying the foundation of life. The COVID-19 pandemic is an example of the consequences of ecological meltdown. When roads cut through tropical forests and humans invade these ecosystems, they encounter wildlife. New diseases travel from animals to humans through zoonotic spillover, producing diseases like H1N1, Ebola, MERS, HIV/AIDS, SARS, Zika, and now COVID-19.

Then we have economic meltdown. Economic inequality within and between states has been growing since the 1980s. According to [Oxfam](#), the world's 2153 billionaires control more wealth than 60 percent of the planet's population (4.6 billion people). Those most susceptible to ecological meltdowns, including climate change and pandemics, are poor people, racial and ethnic minorities, Indigenous peoples, and low-income agriculture-dependent states. It is important to name the economic system that is inflicting so much harm. The system is capitalism, and it has certain key features. Capitalism subordinates the well-being of humans and nature to profit-making through a predatory, extractivist logic that destroys ecosystems, exploits labor, and loots society's natural and collectively produced wealth. During the pandemic, for example, low-wage workers faced the choice of working or starving, even if working exposed them to COVID-19 and paid barely enough to survive.

Finally, we have a social meltdown: the collapse of any semblance of respect for human dignity with resurgence of pathologies that always existed but are now unapologetically on display, including toxic masculinity, white supremacy, xenophobia, and the plunder of Indigenous lands. In the United States, for example, the pandemic laid bare deep-rooted racialized inequities that resulted in the highest rates of COVID-19 infection and death among African Americans, Native Americans, and Latinos. So-called essential workers – many of whom are undocumented – were forced to work in overcrowded conditions with no protective equipment, no sick leave, and no health benefits. When it became clear that people of color were disproportionately getting sick and dying, white supremacists staged anti-lockdown protests, and doubled down on the idea that COVID-19 was a hoax. The Trump administration hosted super-spreader events. Similar behavior was encouraged by authoritarian populists in Brazil and India.

Women were called into action as family caregivers to children, the elderly, and the sick to make up for tattered or non-existent social safety nets. Women working in healthcare or retail faced heightened risks of contracting COVID-19. Women who are parents had impossible workloads as they became nannies and teachers when schools moved to online instruction. Environmental justice movements all over the world have long been headed by women from marginalized racial and ethnic groups whose care work keeps communities intact. The COVID-19 pandemic and the many pandemics to come make it clear whose invisible, unpaid, or underpaid work keeps the economy and society running.

Usha Natarajan: My understanding of meltdown is shaped by disparities between the global South and North. Living in the Middle East for the last twelve years has provided intimate experience with a region perpetually characterized as being in meltdown. The oxymoron of continual meltdown, enduring crises, and perpetual states of emergency renders such words bereft of meaning. Except as evidence of Benjamin's well-worn quote that 'the tradition of the oppressed teaches us that the "state of emergency" in which we live is not the exception but the rule. We must attain to a conception of history that is in keeping with this insight'. Benjamin then goes on to say crucially, 'then it will become clear that the task before us is the introduction of a real state of emergency'.

First, writing history from the tradition of the oppressed. Second, taking down oppressive systems including much of international law in its current form. And third,

making space for subalterns to speak. These three tasks are familiar to scholars of the Third World Approaches to International Law or TWAIL movement. Coming from this background, meltdown resonates for me in two ways. Firstly, in terms of the systemic collapse of ecosystems and societies across the Arab region, global South, and planet. Secondly, in terms of the collapse of knowledge production: the incapacity of disciplines such as ours to produce accurate and useful knowledge about environmental change.

Numerous interrelated environmental transformations are currently taking place. The best known is climate change. The last time there was this much carbon dioxide in our atmosphere was 3.5 million years ago. More perturbing is the onset of the sixth mass extinction of species, the last such mass extinction having been 66 million years ago. Even more pressing is the biggest disruption to Earth's nitrogen cycle in 2.5 billion years. While environmental change on such scales is not unprecedented for our planet, what it is unprecedented is the systemic injustice that caused it.

The richest 20 percent consume 80 percent of natural resources and produce 90 percent of waste. All conversations about the environment must begin with these statistics to make it clear who is responsible and where we should focus. The United Kingdom (population 66 million) emits as much carbon dioxide as Nigeria, Pakistan, Morocco, and Peru (combined population 475 million). California (population 39 million) emits more than the 50 poorest countries (combined population 880 million). Texas and New Jersey (combined population 37 million) emit as much carbon dioxide as sub-Saharan Africa (population 1 billion).

While the poorer 80 percent contribute very little to climate change, they are on the frontlines of environmental harm because of their vulnerable geographic locations, lack of resources and regulatory capacity to protect themselves, ongoing extraction of their natural resources and labor to fuel an unequal global economy, and a systemic transfer of pollution from the rich to the poor. As environmental crises are caused by the rich and borne by the poor, there is no incentive for the richest 20 percent – that is to say, for us – to change our behavior. I'll talk later about what international lawyers can do about this.

2. How is climate change and environmental degradation relevant to international lawyers? What are the theoretical and methodological tools you use to make this connection?

Carmen: International law has long facilitated the plunder of nature and exploitation of racialized and colonized people. As Antony Anghie explains, international law came into being to justify the conquest of Indigenous peoples considered uncivilized because they saw themselves as part of nature and did not exploit nature for profit. For centuries, international law either ignored or justified genocide in colonies as part of Europe's civilizing mission. International law protected the property and contract rights of slave owners and traders. International law developed various legal doctrines to support Northern colonial and postcolonial interventions into the global South, including the doctrine of discovery, terra nullius, the mandate system after World War I, trusteeship after World War II, modernization, development, humanitarian intervention, and preemptive self-defense. International law constructed colonized populations as so savage and primitive that their lives, livelihoods, lands, and cultures were not worth protecting.

Influenced by Enlightenment philosophers, international law universalized the idea that humans were obligated to dominate nature and that Euro-Americans had a moral duty to 'civilize' and forcibly assimilate those who did not share this worldview. This civilizing mission was accomplished through law. After decolonization, international economic law maintained Northern dominance through a variety of mechanisms, including IMF/World Bank loan conditionalities, international trade law, international investment law, and private commercial transactions that globalize contract and property laws of Northern states through choice of law provisions and mandatory arbitration clauses. International law is a tool to operationalize Eurocentric notions of nature as an inert object; to create and maintain racial, cultural and gender hierarchies; and to create and maintain the global economic institutions that deploy these hierarchies and worldviews for profit.

International environmental law, which emerged in the second half of the twentieth century, remains fragmented, possesses weak enforcement tools, and is beholden to the same market-based mechanisms that caused environmental problems. International environmental law has tinkered on the margins of the capitalist world economy instead of calling for its restructuring. It has not even called for the phaseout of fossil fuels though we must keep them in the ground to avert climate catastrophe. The concept of sustainable development that advocates balance between economic,

environmental and social needs has in practice privileged economic activity over human well being and protection of nature. The Sustainable Development Goals or SDGs fail to solve the contradiction at the heart of sustainable development and instead call for more growth everywhere, which is impossible on a planet with finite ecosystems.

Finally, international law maintains the sovereign right of states to exclude migrants, providing very limited protection to persons displaced by hurricanes, droughts and other climate-related disasters. The global South currently hosts 86 percent of forcibly displaced persons even though Northern states bear primary responsibility for the poverty, conflict, and climate-related disasters that fuel displacement.

Usha: How does international law affect the poorer 80 percent? It is a means of insulating the rich – elites across North and South – from the harmful consequences of their actions. Unaccountable for the environmental, social and economic harm they inflict, they are free to accumulate more power and wealth. International law is an efficient handmaiden of globalised capitalism. The first goal of our *Locating Nature Project* is to understand how this works. The project unites scholars working on different aspects to unpack harmful disciplinary assumptions and remake the discipline through traditions of environmental care in the global South. The project interrogates how central disciplinary concepts structure unending exploitation of nature. From sovereignty to territory, jurisdiction to property, economy to human rights, labor to migration, every area of international law makes inaccurate unsustainable assumptions about nature as changeless and capable of infinite exploitation. All international lawyers participate in normalizing these assumptions, which the project aims to undo.

The global North has made no redress for colonialism, genocide, slavery, apartheid, and systemic racial discrimination, historic and ongoing. Hence it is unsurprising that international law provides the rich impunity for environmental harms. Rich states block attempts to develop legal mechanisms for climate redress, preferring the language of aid and largesse over that of causation and responsibility. This includes refusal to provide durable solutions for those displaced by environmental change, numbering in the hundreds of millions and already on the move. The *Locating Nature Project* illuminates how international law helps structure this climate apartheid.

What is an adequate legal response to climate apartheid? More than financial compensation, technological transfer, and other schemes that allow the rich to pay to keep emitting, and to profit from their destructiveness via the so-called green economy.

Hence the second part of the Project is about truth and justice as central to lawmaking. Knowing the truth entails listening to those facing harm, but increasing numbers cannot breathe, with pollution creating asthma, respiratory disease and cancer. The legacy of industry is the toxins and disease their bodies carry into future generations. Millions are unable to survive longer and harsher cycles of drought and famine. No air, no water, no food, no jobs, or even prospect of work in many rural areas. Increasing numbers across the global South know the truth and can identify solutions but are rendered incapable of speaking so we must listen all the harder to those who still can.

Thirdly, in terms of norm creation the Project turns to societies that live in sustainable and healthy ways as best positioned to create international environmental norms compared with those living unsustainably. The question of sustainability upends conventional assumptions about which societies are advanced, civilized, superior, developed, and progressive. It points to the North as in need of transformation and the South as the source of norms.

International law has an important role to play. We cannot ignore it because it structures environmental harm, but even if it weren't part of the problem it needs to be part of the solution because sovereign borders are immaterial to such challenges. Environmental problems are interconnected in complex ways that science is yet to fully understand so international cooperation is wise to avoid irreparable damage. This is what prompted the Project.

Julia: How we respond to the climate crisis is the most critical legal, political and moral question of our time. All international lawyers need to engage with it on a practical and theoretical level. We already see how climate change impacts many different legal specializations. Those working on migration contend with 'climate refugees'; criminal law grapples with ecological crimes; climate change threatens the realization of all human rights; war affects ecology, including deliberate ecological harm as a tool of war; and corporate and financial regulators assess 'climate risks', 'stranded assets', and duties to manage risk. There is also relevance for those working on histories of international law. To overcome planetary crisis, we need to understand it by looking critically at the forces that shaped it. For those concerned with how international law is implicated in and shaped by the colonial encounter, the problem of ecological crisis is intertwined with the violence of colonial and neocolonial control.

Although international environmental law is only 50 years old, there are much longer histories of how international law enabled control over and access to resources. Natural resources were central to the colonial encounter and today many trade and investment disputes are still over natural resources. International law enables unsustainable extraction and combustion of fossil fuels leading to ecological decline. In my lifetime, it has done nothing to change this.

As the *Locating Nature Project* has argued, international law is based on and reproduces a view of nature as devoid of life force or agency: a resource, extractable, commodifiable, tradeable. This view of nature is so embedded in legal understanding (for instance in systems of property), that when law is called upon to protect nature it draws upon the same worldview. A consequence of this is that international environmental law often seeks to protect the environment by creating new property rights and thus further commodifying the natural world. We see this in the creation of rights to emit carbon in transnational emission trading schemes and the conceptual reconfiguration of nature into 'natural capital' or an 'ecosystem services' provider within biodiversity protection discourses. Environmental justice advocates have been very critical of how market-oriented and capitalist forms of environmentalism respond to ecological limits with new enclosures of uncommodified commons. In my own work I have tried to highlight how such processes are actualising new forms of global authority and power over land and resources in the global South in ways that benefit the interests of some actors while further marginalising others. Hence, international lawyers must be concerned not just with addressing ecological crisis, but with *how* we respond, ensuring that any response challenges rather than reproduces existing disciplinary inequalities.

3. There is no question that climate change and environmental degradation is connected with social justice. Are there commonalities and antipathies between environmental activists and activists for racial, Indigenous, gender, and other social justice issues?

Usha: Social justice concerns were what led me to environmental issues. I was part of TWAIL long before I became interested in the environment. I first encountered TWAIL due to my concerns about the postcolonial state after the 2003 Iraq invasion. Through studying the war economy in occupied Iraq, I saw its devastating impact on the environment, and became interested in the role of the natural environment in creating international law and vice versa. Four years of studying the US-led Iraq invasion brought me to the realization that the way we treat nature is inseparable from

the way we treat each other. Either both these relationships are healthy, or neither is. There is no way to progress on either of these fronts except jointly.

I mentioned earlier how the *Locating Nature Project* unpacks harmful understandings of nature embedded in central disciplinary concepts such as sovereignty, jurisdiction, and so on. One key concept is of course the environment itself and how it is conceptualized as a subject of international governance. What is the environment? Who decides? And so what? Answering these questions shows the risks of totalizing, controlling, hubristic, and fascist tendencies that come with dominant understandings of environmentalism in the global North. Unfortunately, this is the type of environmentalism that created international environmental law.

First, this type of environmentalism sidelines the long history of environmental care across the global South. Karin Mickelson's work has been crucial to resurrecting these histories and retelling them in hopeful and inspiring ways. Second, it continues to erase Southern alternatives to globalized capitalism. Third, it is the harbinger of 'environmental colonialism', where yet another field of life is opened up for regulation and intervention from a so-called international sphere dominated by the global North. Except this time the field opened up for international governance is the 'environment', a dangerously ambiguous and all-encompassing concept. This is the risk of 'environmentality', the creating of limitless new objects of governance. As Julia Dehm demonstrates, one high growth area for environmentality are the laws that facilitate new forms of commodification in the green economy: new realms for investment capital to colonize. Fourth, this type of environmentalism is just plain wrong. However, much we may like to believe it, science shows us that the environment is not subject to our governance. Our efforts to subdue it have failed. While the richest among us are doing their best to flee this planet and colonize others, however far away they go there is no getting away from the fact that the environment is something that we are part of and it is what governs us.

Thankfully there are multiple understandings of environmentalism in the world so we should populate our discipline with more accurate and healthy understandings of the environment and law's relationship to it. International law would benefit from ceding space to cultures and traditions long ignored and silenced. This means not only lifting up those systemically silenced due to their species, gender, class, culture, race, sexuality, and various other vectors of injustice; crucially, it involves listening to the environment itself.

Julia: Ecological crises both reflect and reproduce structural inequalities. Warning about climate apartheid, the former UN Special Rapporteur on Human Rights and Extreme Poverty in 2019 highlighted that it is '[p]erversely, the richest, who have the greatest capacity to adapt and are responsible for and have benefitted from the vast majority of greenhouse gas emissions, will be the best placed to cope with climate change, while the poorest, who have contributed the least to emissions and have the least capacity to react, will be the most harmed'.

While distributive inequality analysis focuses inequalities between countries, 'extreme carbon inequality' and differentiated responsibility for greenhouse gas emissions is more acute when mapped at the level of individuals. The ecological crisis reflects and reproduces what Ruth Wilson Gilmore has called the 'state-sponsored and/or legal production and exploitation of group-differentiated vulnerabilities to premature death'.

What has received less attention, and what I focus on, is tracing how existing power relations are reproduced in legal responses to the climate crisis. Perhaps one of the reasons this has received only limited attention is because the field of international environmental law has always been acutely aware of North–South tensions and focused on adopting principles to mediate these tensions. The brilliant *International Environmental Law and the Global South*, co-edited by Carmen, makes a compelling case for the need for international environmental law to bridge the North–South divide and address historical inequities to ensure effectiveness.

However, there has been less focus on how international environmental law reproduces (neo)colonial dynamics, in particular how it reproduces patterns whereby (as Antony Anghie has argued) 'international law continuously disempowers the non-European world, even while sanctioning intervention within it'. I've tried to show how, especially through more marketized approaches to climate governance, international environmental law enables greater commodification of nature and expansion of global authority over land and resources in the global South.

A growing concern I haven't had the chance to properly explore yet are the strands of environmental thought that are highly conservative, nationalistic, and in some case fascist. There are real dangers in how ecological discourses are being mobilised in such nationalist, volkist, violently racist ways. Addressing this requires interrogation of how some strands of ecological thought that have strongly influenced international environmental law have racist colonial origins. Some examples are pervasive ideas of 'wilderness' as devoid of people, invisibilising millennia of occupation and justifying

forms of 'coercive conservation' to evict people from their territories. Also, Malthusian notions of limits and the focus on population growth as a problem, when we know it is the excessive consumption of the rich that causes harm.

Working towards building the types of lawful relations that enable an ecologically just coexistence globally entails a critical dismantling of a lot of international environmental law. Ecological struggles are connected with broader justice mobilisations and we see this in US demands for a 'green new deal'. There has been limited discussion of what this looks like on a global level, and the forms of redistribution it entails. A recently published 'Red Deal' describes itself as a 'manifesto and movement borne of Indigenous resistance and decolonial struggle'. Or a 'peoples' green new deal' committed to degrowth, anti-imperialism and agroecology. International lawyers should engage with and learn from such initiatives.

Carmen: I recently edited *The Cambridge Handbook of Environmental Justice and Sustainable Development* with Sumudu Atapattu and Sara Seck, exploring intersecting forms of oppression that unite and divide environmental justice struggles in the global South and North and their relationship to the social pillar of sustainable development. One of the lessons of this volume is that these injustices are systemic and cannot be addressed unless we tackle root causes. Most recently, I've been exploring the framework of racial capitalism as a means of linking the various forms of oppression that have contributed to the meltdown.

The term racial capitalism was introduced by South African activists and later refined and developed by Cedric Robinson. According to Robinson, racism and capitalism are inextricably intertwined. Capitalism deploys racism as a means of stratifying populations in order to facilitate their exploitation. Capitalism reconfigures existing hierarchies (such as patriarchy) and creates new hierarchies in its endless quest for profit.

The exploitation of workers compelled to work to obtain basic necessities is commonly understood as the heart of capitalism. Workers are paid a fraction of what their work is worth and subjected to harsh working conditions as employers replace full-time workers with part-time and contract workers, bust unions, relocate to regions with lower labor costs, and subject workers to relentless speed-up. What racial capitalism adds to the conversation is the recognition that capitalism has always relied on a second process – expropriation – a concept introduced by Marx and further developed in particular by Nancy Fraser. Expropriation refers to the plunder of nature

and the unpaid or underpaid labor of women, those racialized as inferior, and the colonies and post-colonies. The classic historic examples of expropriation include the enslavement of Africans and the theft of Indigenous lands. When slavery was abolished, African Americans were again expropriated (or hyperexploited) through sharecropping, prison labor, and segregation in low-wage industries.

Capitalism has always used law to racialize certain groups and deprive them of legal protections afforded exploited workers. These racialized groups are paid a wage far below requirements for basic needs. Today, the classic examples include guest workers, undocumented workers, and occupations exempt from labor laws. International law has long been deployed to racialize colonial and post-colonial populations as uncivilized, economically backward or underdeveloped so as to subject them to expropriation through laws and institutions governing lending, trade, and investment.

The third key concept is expulsion, developed by sociologist Saskia Sassen. Expulsion refers to the creation of surplus populations considered expendable and disposable, treated as human waste. Examples include incarcerated persons, persons confined in refugee camps and detention centers, and able-bodied persons warehoused in ghettos, slums and reservations with no prospect of employment. Racial classification frequently determine which persons capitalism will exploit or expropriate and which ones will be expelled.

To be expelled is to be killed by the police with impunity, to be locked up indefinitely in jail or in an immigrant detention center, to have your lands turned into a war zone, to be left to drown at sea or perish in the desert when fleeing a home rendered uninhabitable by climate change, war, or pollution. Capitalism also expels nature when it is no longer useful for capital accumulation, as exemplified by deforestation, desertification, melting glaciers, the great Pacific garbage patch, and dead zones in oceans and lakes.

4. How do you see the link between your environmental research and your everyday life? Does your research change how you live and work?

Julia: I was an environmental activist participating in grassroots, direct action protests, before I became an academic. Part of the series of events that led me to eventually become an international legal scholar was that my activism created barriers to me practicing law domestically. Nowadays, a key part of the activist world I engage in is supporting social justice protests as a legal observer, which I see as critical to

supporting others to take the types of direct action and protest action that sometimes deliberately breaks unjust law, and that is necessary to confront powerholders and push for ecologically just futures. I'm also engaged with grassroots organising in my union because contesting academic precarity is critical to making our workplaces sustainable and defending academia as a place for careful and critical thought. I've also been peripherally involved with corporate accountability work done by Friends of the Earth Australia.

In the 10 months since my daughter was born, the future our children inherit and questions of intergenerational justice have taken on material urgency and I've been concerned with how we raise children with the tenacity to live in the degraded world we leave them and also fight to make it better. I'm already trying to turn my daughter into an activist and have dragged her along to a bunch of protests.

At times, I feel a tension between my more theoretical research and this activist concern for action. I recently published a book that examines in detail a 'false solution' to the climate crisis, namely the Reducing Emissions through Deforestation and Forest Degradation (REDD+) scheme. Part of me worries that it's a waste to spend time and energy critiquing false solutions when we need to generate solutions. But intellectually, I've shied away from producing more programmatic academic research that pushes particular policy approaches, although I have participated in writing reports for NGOs that make clear policy recommendations. My research is committed to asking what Sundhya Pahuja calls the more 'bendy' rather than 'straight line' questions: not 'what should we do' but 'how should we understand'. Critical scholarship plays an important role interrogating the conditions we find ourselves in, our epistemic frames, the historical trajectories that produced our present, and the forces that prevented other possible pathways.

In concluding, I return to where I started, to the recognition that I live on unceded land, that the sovereignty of so-called Australia over this continent is illegitimate, and the responsibility this gives rise to. First, it calls for solidarity in concrete and material ways, paying the rent for example. But epistemically, it also drives me to approach questions from a position of humility, to try and learn from and amplify the voices of Indigenous jurists, scholars and activists. For example, my analysis of REDD+ was guided by critiques from the Indigenous Environmental Network who saw it as a form of neocolonialism or CO₂lonialism, as well as the voices of Indonesian villages affected by a REDD+ project who described it as the 'new face of capitalism in the shape of ecological imperialism' that is 'turning [their] homes into a carbon toilet'. Linked to

this is a commitment that I worry that I haven't adequately materialised, to undertake 'militant research' or 'intervention in knowledge production that "reads" struggles from within'. Perhaps most fundamentally, the acknowledgment that I live on unceded land is also an acknowledgement that there are other laws in this place beyond settler colonial laws, that there are other international laws beyond the legal relations between states, and that we need to create space for this plurality in pursuit of ecologically just coexistence.

Usha: Working on environmental justice profoundly changed my academic life. We see how the real pollutants aren't toxins, acid rain, and nuclear waste, but rather the fear, greed, and selfishness that permeates all workplaces under late capitalism. In academia, this manifests as relentless self-promotion; the urge to settle, colonize and carefully guard research space; the most privileged determined to amass more power; and a university system that intensifies bottomless insecurity and insatiable ambition. These operations are also incredibly gendered and racialized. Hence, Carmen and her co-editors published two crucial volumes of *Presumed Incompetent* about women negotiating the intersections of race and class in academia, creating space for stories usually silenced.

In opposition to such endeavors, we have the alarming commodification of suffering and critique, itself now tradeable and increasingly valuable currency, creating strong incentives for dishonesty. There are the obvious cases of those pretending to be Black, Indigenous, poor, or other assumed identities to gain professional advantage. And the less obvious but more prevalent cases of those who say one thing and do the opposite. Who assert solidarity with the disempowered from positions of great privilege in a manner that entails no self-sacrifice but that multiplies and capitalizes on others' suffering to build their own careers. Self-proclaimed Marxists that are unable to share or work with others, self-proclaimed environmentalists that habitually destroy their environment, and so on.

I say this not to sit in judgment given that none of us is in a position to cast the first stone from our glass houses. Rather, I gesture to the power we have to make change through daily action, change more effective than what we publish or present at conferences. Who do we hire? Who do we admit to degrees? Who do we cite? Who do we invite to research projects and conferences? Who do we spend time with? Who do we publish? Who do we help? Who do we respect? Which relationships do we value most? In answering these questions are we motivated by self-interest or helping those in greatest need?

This has been the best lesson from TWAIL. While by no means a perfect movement, TWAIL provides solidarity when folks need it. This includes working with sensitivity to those operating within academia carrying immense burdens. Abuse, violence, and harassment within and outside the workplace, disproportionate health problems, very few resources and poor educational infrastructure. This is a given in most universities across the global South. Countless sacrifices are made daily by scholars in the global South, and by their families and communities, so they can participate in knowledge production. They deserve attention, care, and support.

Just as capitalist accumulation and greed is fear-driven, environmental change also provokes immense fear. While the richest build luxurious underground bunkers in New Zealand and buy tickets to outer space to escape the apocalypse, a more effective antidote to this type of fear is knowledge. Fear of the unknown produces either cynicism, as in the case of the very rich; or paralysis, which is the bourgeois reaction; or helplessness and despair in the masses. But learning about these issues, complex and impartial as scientific knowledge is, is inevitably a spur to action. People often assume that studying the environment is all doom and gloom. On the contrary, it is wonderous and life-affirming. As we learn about the environment, we know ourselves as part of it, as empowered agents that through daily choices and relationships continually make change.

Carmen: Academia is not an ivory tower, but a terrain of struggle: a battleground of ideas dominated by white, male, middle- and upper-class scholars from the global North. Those who do not share these identities are frequently marginalized and excluded.

It is important to use every space we occupy to lift up subordinated groups. Let me begin with teaching. For years, I struggled with leading textbooks on international environmental law that did not offer critical perspectives. I eventually edited my own book, *International Environmental Law and the Global South*, emphasizing the perspectives and priorities of the states and peoples of the Global South, and I use it as a foundational text to teach international environmental law.

I also edited *Presumed Incompetent* and *Presumed Incompetent II* on the experiences of women of color in academia. I hope these books will create community among like-minded scholars, will increase the representation of women of color in academia, and will create a more equitable campus climate for historically underrepresented groups.

I enjoy teaching international trade law because it gives me the opportunity to supplement leading texts with materials that deconstruct the discipline. I have also taught in and helped organize summer abroad programs that take such students to the global South where they are introduced to different perspectives on history and politics. Several students said this experience was life-transforming and altered their career trajectory.

I have represented NGOs as observers in environmental treaty negotiations. I served on an advisory body to the US Environmental Protection Agency on environmental justice. I produced white papers for think tanks. I served on the Board of Directors of Greenpeace USA. I also served on the Board of Trustees of Earthjustice, the largest public interest environmental law firm in the US. Among US environmental organizations, Earthjustice has done most to incorporate environmental justice as a core part of its work and to diversify its staff and leadership. Part of my work is to help activists and government officials unpack the layers of history required to understand today's major environmental problems, including a deeper understanding of systemic racism and settler colonialism.

Finally, it is essential to mentor the next generation to make sure there is another generation of scholars, preferably scholar-activists who will take the reins when I am gone. This means doing lots of peer reviews of books and articles that might otherwise experience censorship. It means doing tenure and promotion reviews of scholars whose work might be unfairly evaluated because of their identities or because they deploy non-mainstream frameworks or methodologies. I recommend critical scholars for awards to make sure their work receives recognition. I also work with colleagues to produce scholarly anthologies. My experience is that individual articles can be ignored in disciplines closed to critical perspectives, but there is power in speaking collectively.

~