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REFLECTIVE PIECE

# Decolonising legal education: A reflective journey from expert blindness to transformative teaching in South African higher education

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## ABSTRACT

This reflective essay traces the personal and professional transformation of a law lecturer navigating the shift from traditional, Eurocentric legal teaching to a decolonised, student-centered approach in South African higher education. Drawing on insights from the Learning and Teaching in Higher Education (LTHE) programme, the author critically examines challenges encountered in integrating decolonial theory, reflexivity, and authenticity into curriculum design, pedagogy, and assessment. By situating legal education within broader calls for epistemic justice and institutional transformation, the essay highlights the tensions between established doctrinal teaching and the imperative to co-create critical, socially engaged learning environments. Ultimately, this narrative underscores the potential of reflective practice to catalyse both personal growth and systemic change in pursuit of a more inclusive, context-responsive legal education.


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## Introduction

Legal education in South Africa is at a critical juncture, shaped by historical legacies and the urgent need for transformation (Mbembe, 2015). The nation remains marked by colonial and apartheid histories, which have long defined the parameters of legal thought and the structures of higher learning (Pickett & White, 1985; Ndlovu, 1997). This piece aims to reflect deeply on the process of decolonising the legal curriculum, drawing upon personal experience, episodes of institutional change, theoretical debate, and recent case studies in South African universities. The underlying argument is that transformation in legal education is not simply a matter of changing curricular content. Instead, it is a far-reaching ideological, cultural, and pedagogical shift that must touch every aspect of teaching, student engagement, institutional policy, and even the legal framework itself (Archer, 2000; Mawere, 2020).

## Decolonisation and pedagogic change

Decolonisation, in the South African legal education context, refers to efforts to shed the colonial yoke of exclusive Western ideologies and reconstruct educational spaces as inclusive, responsive, and rooted in African epistemologies (Mbembe, 2015; Mawere, 2020). In legal education, this means critically probing inherited traditions and interrogating the frameworks that have long held pride of place in the curriculum (Nkosi, 2018). As Myburgh (1985) and Ngũgĩ wa Thiong'o (1986) remind us, colonisation is as much of the mind as of the institution, thus the process of decolonisation must begin with an ideological shift and the conscious recognition of the many ways in which coloniality, eurocentrism, and centralism continue to inform law teaching today.

Freire's (1972) critical pedagogy underscores the importance of dialogic, student-centred education, demanding that educators not only transfer knowledge but also facilitate the co-construction of meaning. Brookfield (2017) expands on this idea with the concept of expert blindness, the tendency for subject specialists to remain locked inside disciplinary silos and resist perspectives that fall outside their area of training. In law faculties, this blindness is pervasive, manifesting in rigid assessments, memorisation-heavy approaches, and a reluctance to treat legal education as a vehicle for social critique and contextual relevance.

**Historical context and the demand for decolonisation**

South Africa's legal education system remains deeply influenced by policies such as the Bantu Education Act (1953) and the Extension of University Education Act (1959), which entrenched race-based educational divides for decades (Mawere, 2020). Post-apartheid reforms have sparked debate about the status and nature of legal education, yet much of contemporary curriculum still exhibits a eurocentric focus and perpetuates mainstream legal reasoning at the expense of indigenous law, customary practices, and local justice systems (Ndlovu, 1997).

The #FeesMustFall movement of 2015–2016 brought the issue of decolonisation to the fore, as students nationwide demanded free and truly transformative education (Mawere, 2020). Their critique was rooted not only in access, but in the deeper question of which knowledge matters, whose values guide the curriculum, and whose worldviews inform teaching practice. This movement illuminated the inadequacy of reforms that stopped at surface-level inclusion of new content, instead insisting on paradigm shifts that challenge the foundations of institutional culture itself.

**Integration of Indigenous law and African epistemologies**

A central axis for decolonising the law curriculum is the incorporation of living Indigenous law, which can be defined as flexible, unwritten frameworks responsive to contemporary African contexts (Mawere, 2020). Historically, Indigenous knowledge has been relegated to a marginal position, often siloed into a single course or treated as an alternative subject. Genuine transformation would require that Indigenous law, customs, and values permeate the entire curriculum and become central to scholarship, pedagogy, and research.

Kanengoni (2016) and Himonga and Diallo (2017) advocate for curriculum structures that move away from the eurocentric conception of law rooted in colonialism and towards truly inclusive legal cultures. This means not only revising syllabi, but confronting long-standing attitudes among faculty, students, and practitioners, many of whom retreat to Western frameworks when faced with uncertainty, favouring the perceived certainty and uniformity of established legal principles (Mawere, 2020).

### Personal and institutional narratives

The journey towards decolonising legal education is as much personal as institutional. Archer (2000) and Stierer (2008) argue persuasively for the role of reflexivity as a methodological and mindset shift in which educators and students alike examine their positionalities, biases, and complicities within colonial systems. For the author, reflexivity began as an uncomfortable confrontation with expert blindness, the realisation that memorising the Criminal Procedure Act or mastering courtroom advocacy was not sufficient to prepare students for the complex realities they would face (Brookfield, 2017).

Early attempts to introduce Indigenous law, trauma-informed dialogue, and case studies centred on township violence were met with nervousness, resistance, and at times overt pushback from students and colleagues. The discomfort proved instructive, revealing the corridors of power and silence that persist in academia (Deel, n.d.; Mbembe, 2015). Adopting silent pauses, open-ended questioning, and vulnerable engagement became essential strategies in fostering more equitable dialogues in both classroom and faculty meetings.

### Curriculum and assessment transformation

Haggis (2003) highlights constructive alignment as a key mechanism for transforming curriculum and assessment in higher education. Rather than relying solely on generic grading and rote learning, constructive alignment calls for synchronising learning outcomes, teaching activities, and assessment methods. Co-creating rubrics with students for moot court exercises, integrating peer assessment, and allowing iterative feedback can democratise learning and reduce anxiety, as well as help develop critical self-reflection (Deel, n.d.).

In practice, this shift from procedural rigidity to more open-ended, iterative approaches involved real challenges. Students accustomed to correct answers sometimes struggled with dialogic methods, and some faculty colleagues voiced concerns that broadening assessment frameworks could dilate standards or jeopardise professional readiness (Pickett & White, 1985). Institutional structures, metric-driven performance reviews, and tightly regulated syllabi posed additional obstacles, necessitating ongoing advocacy for reform at the departmental or university-wide level (Nkosi, 2018).

**Paradigm shifts and institutional resistance**

No transformation occurs in a vacuum. As Kader & Wilmot (2001) and Chaka, Bodomo and Mahlangu (2017) note, decolonisation depends on ideological shifts throughout the nation's legal framework, not merely on academic change. South Africa's pluralistic legal framework, which incorporates both common and customary law, demands new approaches and a willingness to think beyond centralised or positivist models (Mawere, 2020). Yet, many judges, educators, and students, while receptive to rhetoric about indigenous law, ultimately revert to Western reasoning in practice, highlighting the depth of education and socialisation in colonial and apartheid legacies (Ndlovu, 1997).

Institutional resistance manifests in various forms, including rigidity in course prerequisites, pressure to prioritise content coverage over critical debate, suspicion towards Afrocentric or trauma-informed methodologies, and the persistence of eurocentrism in conference discussions, research priorities, and administrative structures. Navigating these resistances is a central challenge for any educator committed to decolonisation, requiring a deep well of courage, stamina, and critical hope (Freire, 1972; Mbembe, 2015).

**Innovations in South African universities**

Several universities in South Africa have embarked on bold experiments to advance decolonisation. At the University of Cape Town (UCT), faculty collaborated with student activists to redesign syllabi, introduce African philosophy, and centre indigenous law in foundational modules (Mbembe, 2015). Similar innovations have occurred at Walter Sisulu University, where co-created assessments and trauma-informed teaching were piloted in criminal law and advocacy courses.

At the University of Pretoria, Mawere (2020) describes the revamping of legal history courses to trace the interplay between Indigenous knowledge, colonial imposition, and the evolution of constitutional values. These efforts often encounter backlash—both from students who fear the unfamiliar and from faculty, who worry about standards, employability, and professional legitimacy (Pickett & White, 1985; Brookfield, 2017).

Another illustrative case involved a student-led debate on the role of plea bargaining in South African criminal procedure. The discussion centred on the neoliberal roots of plea bargaining and its

impact on access to justice in marginalised communities, with students exploring not only formal doctrinal answers but also grassroots and community-driven solutions. Such exercises cultivate the habits of critical dialogue and social responsibility central to decolonised education (Saranto, 2017).

**The role of the law teacher**

Deel (n.d.) proposes that teaching, especially in the process of decolonisation, must be rooted in authenticity. The shifting roles, no longer just of gatekeepers but also facilitators, partners, and students themselves, demand both vulnerability and ongoing self-examination. Teachers must continually interrogate not only what they teach but how they teach, who is privileged in classroom dynamics, whose knowledge is uplifted, and whose is silenced. This becoming is never finished. Each chapter of growth brings new doubts, reconsiderations, and opportunities for adaptation (Archer, 2000). At the heart of good teaching are gratitude, readiness to evolve, and the freedom to discover, adapt, and redefine practice, not as a burden, but as the lifeblood of academic engagement (Deel, n.d.).

## Challenges and recommendations for future practice

Despite numerous successes and promising experiments, a series of ongoing challenges persists. The rhythm of law teaching in South Africa is largely structured by external standards set by professional bodies, university guidelines, and regulatory frameworks (Pickett & White, 1985). This often limits the scope for engaged dialogic pedagogy and critical examination of systemic injustice. Many lecturers lack training in trauma-informed, student-centred, or Afrocentric methodologies (Mawere, 2020). Professional development programmes focused on these aspects remain underfunded and misunderstood. Students, especially those on professional tracks, can sometimes be resistant to teaching methods that prioritise debate, dialogue, or lived experience over technical mastery. As Ndlovu (1997) points out, rural and historically disadvantaged universities often lack the material, technological, and institutional resources necessary to sustain lasting change.

To address these challenges, three strategies are proposed. Future reforms should involve students in the co-creation of learning outcomes, assessment formats, and even classroom norms and culture. Their lived experiences and critical perspectives are crucial for authentic transformation, echoing movements such as 'Nothing about us without us' (Deel, n.d.). Law lecturers and educational leaders must continually press for policy reform, greater latitude for innovative

teaching, recognition of diversity in assessment, and the valorisation of indigenous knowledge systems within the university's public mission (Brookfield, 2017). Vulnerability should be widely recognised as a pedagogic strength, supporting dynamic, relational learning environments where ongoing negotiation, critique, and adaptation are not only possible, but celebrated (Haggis, 2003).

## Conclusion

Decolonising legal education is a long and unfinished journey, one that entails personal transformation, institutional reconsideration, and the persistent pursuit of justice. As Mbembe (2015:5) observes, teaching, like law, is neither static nor neutral; it is a dynamic practice of justice, shaped by courage, context, and critical hope. In reflecting on the shift from expert blindness to collaborative, context-responsive pedagogy, this essay highlights the need to look beyond curricular tweaks to foster a lived, evolving commitment to epistemic justice and social repair. With each step, law teachers must interrogate their own histories, positionalities, and pedagogic practices, releasing the burden of singular perfection and embracing plurality and uncertainty. Good teaching wears many faces; the challenge and the privilege are to keep evolving together in the service of transformation, care, and collective imagination (Deel, n.d.; Archer, 2000).

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