Preface

I wrote this book because the ideas in it would not let me rest. They would wake me up at night, interrupt my work, and disorder my reflections. I got into the habit of writing these ideas in short notes on random pieces of paper and on my phone, just to get away from them. As academia in the Global North began to be more interested in ‘decolonisation’ as a term of art, I wrote about these ideas in my blog, in book chapters, and academic articles. None of these formats seemed to properly encompass the broad scope of how I wanted to explore the ways in which decolonisation relates to academic knowledge in law. And even here in this book, there is still more that I want to say.

I came to decolonisation, as a topic of study, before and within my study of law. As a cosmopolitan child of the ‘80s, I witnessed the global anti-apartheid movement. I read books written by writer–scholar–politicians who were pillars of the anticolonial and decolonisation movements across Africa from the ‘50s to the ‘80s. Some who trained as lawyers. So, from quite early on, the study and practice of law pointed me to its liberatory potential for ending continuing colonial logics as well as other global harms and injustices. So, I, like many others before and after me, came to the law school, because I heard freedom and justice and peace in its name. However, in time we all learn, though often not so explicitly, that the coloniser’s justice is not justice for the colonised. We learn that ‘the claim of the universal translatability of the English word “justice”… is an extraordinarily presumptive one’ (Gordon 2013: 70). We all learn that peace is not equally distributed. We all learn, eventually, that freedom for those racialised below the abyssal line is not the same for those racialised above it. We could suggest that legal education opens students’ eyes to the true nature of the law, especially when the focus of legal education is on black letter or doctrinal law. As Justice Oliver Wendell Holmes tells us, ‘The common law is not a brooding omnipresence in the sky, but the articulate voice of some sovereign’ (in Southern Pacific Co v Jenson 1916: 222). Student disillusion it could be suggested then, is caused by false expectation. However, this statement by Holmes not only tells us what is, but also invites us to consider what is possible within legal knowledge. Where does power reside? Whose voice articulates it? What is sovereign in this world?
However, this book is not a how-to on ‘decolonising the curriculum’. This is not even a book about decolonising the curriculum. I feel that this phrasing (that is, ‘decolonising the curriculum’) misuses the specific register and nature of colonisation/decolonisation and does not convey precise meaning. ‘Decolonising the curriculum’ is a phrase that without engaging with the specificity of the political and anticolonial origins of the praxes and logics of decolonisation, operates as a mismatched action and object. In that sense, it is akin to phrases like ‘measuring the yellow’ or ‘climbing the fragrance’. This book is also not an argument for decolonisation. The argument for decolonisation lies in the structures of our world – structures that continue to reproduce racial injustice, extreme poverty, and inequality, as well as environmental devastation. It is evident that at each turning point in history – the end of racialised enslavement, flag independence for colonised nations, the worsening climate emergency, and the necropolitical management of pandemic realities – we continue to miss opportunities to prioritise life – all life – over risky economic largesse for some … we miss every chance to save from perdition, ourselves, and the earth upon which we currently precariously survive. We miss the chance to fashion a compassionate global and legal system, preferring a dispassionate one that is unable to properly read and protect all life and space–time.

Ultimately, this book is about power and possibility, because through it I am urging us (mainly legal scholars, but also nonlegal scholars and non-scholars) in our use of decolonisation as praxis, to pay closer attention to how power is transmitted through legal knowledge in the university … through teaching, research, and other related activity. I also want us to be very creative with the idea of possibility. We should be able to push very strongly against the boundaries of what we consider to be possible and settled. So, we can save from perdition, ourselves, and the earth upon which we currently precariously survive. Therefore, my approach to possibility is not just acceptance that the current world’s structure cannot bring forth liberation for all, but also the realisation that this is not the only structure that is possible.

This book is meant to open a conversation, not to close it. Thus, understanding the impossibility of tertiary education confining and defining decolonisation, this book focuses on curating, from many schools of decolonisation, some fundamentals of decolonial work that can be done within universities, with specific reference to legal education. I engage with epistemic injustice as a product of colonialism and trace its footprints within legal knowledge. Writing this book comes from the concern that we do not yet have fully developed epistemic tools to imagine and build new, just, flourishing, and inclusive worlds. Consequently, it aims to contribute to thinking through new pathways to lead us to new questions that help us drag ourselves out of the night of human suffering into the light of new worlds. This book is a reminder that despite the inequalities produced by coercive power, the law school and the university still remain fields of possibility.