

In the Age of Chaos: How Decolonial Approaches Can Help Reconstruct International Environmental Law

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ABSTRACT

Our world is not just uncertain and complex; we are evolving into an age of chaos, with environmental collapse at its epicentre. By addressing environmental challenges in isolation rather than within their broader historical and socio-economic context, international environmental law has failed to respond effectively. In this contribution, we argue that mainstream research paradigms based on doctrinal approaches are insufficient. We provide a brief overview of the inadequacies of global environmental governance as shaped by a series of multilateral environmental agreements (MEAs), illustrated by our insights at the 2024 meeting of the Conference of the Parties (COP 16) to the Convention on Biological Diversity (CBD), with emphasis on outcomes related to Indigenous Peoples and local communities. Building on the legacy of Third World Approaches to International Law (TWAIL) and Indigenous approaches, we draw attention to lessons arising from decolonial theory articulated primarily by Latin American scholars. We argue that the persistence of doctrinal and positivist approaches in legal scholarship has failed to address the root causes of planetary challenges. We emphasise the importance of a paradigm shift grounded in decolonial research praxis that prioritises relationality and transdisciplinarity. Decolonial praxis can help unpack the historical inequities, power imbalances, and material continuities of colonial legacies that remain at the heart of global environmental governance, and challenge the structures and knowledge that underpin the governance architecture. A new research paradigm would be based on the recognition that international law is a historically contingent and deeply political field that has mainly served as a mechanism of domination, albeit paradoxically also as a site of resistance.

Le monde n'est pas seulement incertain et complexe ; il tend vers une ère de chaos, dans laquelle l'effondrement environnemental joue un rôle central.

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En abordant les défis environnementaux de manière isolée plutôt qu'en tenant compte de leur contexte historique et socio-économique plus large, le droit international de l'environnement ne répond pas efficacement à la crise écologique. Dans cette contribution, nous soutenons que les paradigmes de recherche traditionnels, fondés sur des approches doctrinales et positivistes, sont insuffisants pour faire face à ces enjeux. Nous proposons un aperçu des insuffisances de la gouvernance environnementale mondiale, façonnée par une série d'accords multilatéraux sur l'environnement (AME), et illustrons nos observations lors de la réunion de 2024 de la Conférence des Parties (COP 16) à la Convention sur la diversité biologique (CDB), en mettant l'accent sur les résultats concernant les peuples autochtones et les communautés locales. En nous appuyant sur l'héritage des approches du Tiers Monde en droit international (TWAIL) et des perspectives autochtones, nous attirons l'attention sur les leçons tirées de la théorie décoloniale, principalement développée par des chercheurs latino-américains. Nous affirmons que la persistance des approches doctrinales et positivistes en droit ne permet pas de traiter les causes profondes des défis planétaires. Nous soulignons l'importance d'un changement de paradigme ancré dans des pratiques de recherche décoloniales qui privilégient la relationalité et la transdisciplinarité. La praxis décoloniale peut aider à dénouer les inégalités historiques, les déséquilibres de pouvoir et les continuités matérielles héritées du colonialisme, qui demeurent au cœur de la gouvernance environnementale mondiale, tout en remettant en question les structures et les savoirs qui sous-tendent l'architecture de cette gouvernance. Un nouveau paradigme de recherche serait fondé sur la reconnaissance que le droit international est un domaine historiquement contingent et profondément politique, ayant principalement servi de mécanisme de domination, tout en étant, paradoxalement, un lieu de résistance.

Onze wereld is niet alleen onzeker en complex; we evolueren naar een tijdperk van chaos, met milieucollaps als epicentrum. Door milieuproblemen geïsoleerd aan te pakken in plaats van binnen hun bredere historische en sociaal-economische context, is het internationaal milieurecht er niet in geslaagd om effectief te reageren. In deze bijdrage stellen we dat gangbare onderzoeksparadigma's gebaseerd op doctrinaire benaderingen onvoldoende zijn. We geven een kort overzicht van de tekortkomingen van het mondiale milieubeheer, zoals vormgegeven door een reeks multilaterale milieuaffaires (MEA's), geïllustreerd door onze inzichten tijdens de bijeenkomst van 2024 van de Conferentie van de Partijen (COP 16) van het Verdrag inzake Biologische Diversiteit (CBD), met nadruk op resultaten gerelateerd aan inheemse volkeren en lokale gemeenschappen. Voortbouwend op de erfenis van Third World Approaches to International Law (TWAIL) en inheemse benaderingen, vestigen we de aandacht op lessen die voortvloeien uit dekoloniale theorie, voornamelijk gearticuleerd door Latijns-Amerikaanse geleerden.

We stellen dat de voortzetting van doctrinaire en positivistische benaderingen in de rechtswetenschap de onderliggende oorzaken van planetaire uitdagingen niet heeft aangepakt. Wij benadrukken het belang van een paradigmaverschuiving die geworteld is in decoloniale onderzoekspraktijken die relationaliteit en transdisciplinariteit prioriteren. Dekoloniale praktijk kan helpen om de historische ongelijkheden, machtsverhoudingen en materiële continuïteiten van koloniale erfenissen te ontrafelen, die nog steeds centraal staan in het mondiale milieubeheer, en de structuren en kennis die de governance-architectuur ondersteunen, uitdagen. Een nieuw onderzoeksparadigma zou gebaseerd zijn op de erkenning dat het internationaal recht een historisch contingente en diep politiek veld is dat vooral heeft gediend als mechanisme van dominantie, maar paradoxaal genoeg ook als een plek van verzet.

Keywords: Decolonial praxis; Indigenous approaches; international environmental law; global environmental governance; biodiversity; Convention on Biological Diversity

INTRODUCTION:

INTERNATIONAL ENVIRONMENTAL LAW IN THE AGE OF CHAOS

The COVID-19 pandemic has revealed that our world is not just uncertain and complex; it is evolving into an age of chaos.¹ To face this new era, Jamais Cascio proposed the BANI framework — *Brittle, Anxious, Nonlinear and Incomprehensible* — as a lens to help us articulate better ways to respond to this chaotic world. In the brittle world, when one system collapses, it can cause a global ripple effect. However, this ripple effect is simultaneously nonlinear, with disproportionate and seemingly disconnected cause-and-effect relationships that make this chaotic world incomprehensible.² This unpredictability leaves people anxious and helpless, trapped in a labyrinth without an exit.

Environmental collapse is at the epicentre of the age of chaos. Threats posed by climate change, biodiversity loss, pollution and waste demonstrate the tightly intertwined messiness we face. With links and massive impacts on human health, poverty, hunger, debt and rights, planetary challenges are shared but affect countries and people differently. The Global South suffers the most, although it has contributed the least to environmental degradation, and it hardly reaps the benefits of its own resources. While demand for natural and genetic resources grows and diversifies to satisfy the energy, food, and (bio)technological needs of mainly affluent populations in the Global North, biodiversity is being lost at

¹ J. CASCIO, 'Facing the Age of Chaos', *Medium*, 29 April 2020, available at <https://medium.com/@cascio/facing-the-age-of-chaos-b00687b1f51d> (Accessed 13 January 2025).

² Ibid.

unprecedented rates, marking the sixth mass extinction³ with potentially catastrophic consequences for all systems of life on Earth.

These observations are neither new nor politically radical: The Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES) has underscored the interconnection among environmental, social and economic crises — such as biodiversity loss, water and food insecurity, health risks and climate change — as well as their cascading effect and unequal impact, disproportionately affecting some more than others.⁴ Evidence shows that biodiversity-rich countries are simultaneously among the poorest and the most affected by climate change. They contribute the least to carbon emissions and profit the least from their diversity.⁵ At the same time, economic inequalities expand and deteriorate both between and within countries,⁶ with research increasingly confirming a link between economic inequality and biodiversity loss.⁷

Addressing environmental challenges without considering their broader historical and socio-economic contexts has undermined the effectiveness of international environmental law.⁸ This essay contends that traditional doctrinal research paradigms are inadequate for tackling the complexities of a BANI world. By reviewing literature on Third World Approaches to International Law (TWAIL) and decolonial theories and reflecting on our own efforts to decolonise research practices, we highlight the shortcomings of global environmental governance, particularly through multilateral environmental agreements (MEAs). This is illustrated in this contribution through insights from our participatory observation at the 2024 Conference of the Parties (COP 16) to the Convention on Biological Diversity (CBD), with emphasis on outcomes

³ E. KOLBERT, *The sixth extinction: an unnatural history*, New York, Henry Holt and Company, 2014; E.S. BRONDIZIO et al. (eds.), 'Global assessment report on biodiversity and ecosystem services of the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services', IPBES secretariat, 2019.

⁴ P.D. McELWEE et al. (eds.), 'Summary for Policymakers of the Thematic Assessment Report on the Interlinkages among Biodiversity, Water, Food and Health of the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services', IPBES secretariat, 2024.

⁵ M. BELAY et al., 'Breaking the Cycle of Unsustainable Food Systems, Hunger, and Debt', *IPES-Food*, 2023, available at <https://ipes-food.org/report/breaking-the-cycle-of-unsustainable-food-systems-hunger-and-debt/> (Accessed 13 January 2025).

⁶ UN Department of Economic and Social Affairs, 'World Social Report 2020: Inequality in a rapidly changing world', available at: <https://www.un.org/development/desa/dspd/wp-content/uploads/sites/22/2020/01/World-Social-Report-2020-FullReport.pdf> (Accessed 13 January 2026); World Bank, '2023 in Nine Charts: A Growing Inequality', available at <https://www.worldbank.org/en/news/feature/2023/12/18/2023-in-nine-charts-a-growing-inequality> (Accessed 13 January 2026).

⁷ I. KUBISZEWSKI et al., 'The complex relationships between economic inequality and biodiversity: A scoping review' (2024) 11(1) *The Anthropocene Review*, pp. 49-66.

⁸ K. MICKELSON, 'South, North, International Environmental Law, and International Environmental Lawyers' (2000) 11(1) *Yearbook of International Environmental Law*, pp. 52-81.

related to Indigenous Peoples and local communities. Building on TWAIL and Indigenous perspectives, we draw attention to lessons arising from decolonial theory articulated primarily by Latin American scholars. We emphasise that persistent doctrinal and positivist approaches in legal scholarship have failed to address the root causes of planetary challenges. Instead, we advocate a paradigm shift rooted in decolonial research praxis that prioritises relationality and transdisciplinary collaborations. Such frameworks can help unpack historical inequities, power imbalances, and material continuities of colonial legacies embedded in global environmental governance, challenging existing structures and knowledge. A new paradigm would acknowledge that international law is a historically contingent and deeply political field that has mainly functioned as a tool of domination, albeit paradoxically also as a site of resistance. We thus present elements that can facilitate this paradigm shift, enabling researchers to adopt more relational, collaborative approaches grounded in reciprocity and respect.

Departing from decolonial theory as our locus of enunciation and writing as two international environmental lawyers and an interdisciplinary scholar with backgrounds in both environmental and social sciences, who share values regarding environmental and social justice, we seek to combine our readings, experiences and disciplinary traditions. Our goal is to address our blind spots, challenge biases and build the competencies needed to navigate chaos.⁹ As female researchers, two white and one woman of colour from the Global South, but all based in European universities, we acknowledge our privileges associated with being trained in Global North institutions, which limit our ability to understand and translate Indigenous onto-epistemologies. In our work, we strive to bridge Western and Indigenous knowledge systems, aiming to generate knowledge while acknowledging the complexities of this hybridity, particularly given the historically unequal relations between these ways of knowing and being.

I. THE INADEQUACIES OF MULTILATERAL ENVIRONMENTAL AGREEMENTS: THE CONVENTION ON BIOLOGICAL DIVERSITY AS A CASE STUDY

A series of multilateral environmental agreements (MEAs) have been adopted as part of the international community's effort to address a multitude of challenges, from climate change, desertification and the depletion of the ozone layer to hazardous waste, chemical pollution, and biodiversity loss. A piecemeal

⁹ A. HORN, E. URIAS and M.B.M. ZWEEKHORST, 'Epistemic stability and epistemic adaptability: interdisciplinary knowledge integration competencies for complex sustainability issues' (2022) 17(5) *Sustainability Science*, pp. 1959-1976.

approach to treaty-making has resulted in an increasingly dense web of international treaties and soft-law instruments, accompanied by complex institutional mechanisms. As environmental challenges persist and intensify, their efficiency has been questioned. A recent study highlighted the lack of implementation of binding commitments in all areas of international law, with the exception of trade and finance.¹⁰

The 1992 UN Convention on Biological Diversity (CBD)¹¹ is currently the main treaty for global biodiversity governance, enjoying almost universal application — with the notable exception of the USA. The objectives of the CBD are the conservation and sustainable use of biodiversity, as well as the fair and equitable sharing of the benefits arising from the use of genetic resources.¹² Its implementation relies on national governments and is guided by decisions made by the Conference of the Parties (COP), which is the governing body composed of State Parties that meets every two years. Despite intense policy work at the intergovernmental level, including a long series of COP decisions and three legally binding protocols¹³ addressing the interface between biodiversity and biotechnology, implementation remains inadequate: biodiversity loss continues unabated. At the same time, ‘each wave of technological change brings inequality in new shapes’.¹⁴

While decision-making remains restricted to State Parties, the CBD processes are open to observers, favouring inclusive participation and arguably providing the most advanced framework for involving Indigenous Peoples and local communities with traditional lifestyles among the MEAs.¹⁵ With society’s interest in biodiversity growing in recent years, we have witnessed increased public participation in the CBD processes, mirroring trends observed under the UN Framework Convention on Climate Change (UNFCCC).¹⁶ For example, the 16th meeting of the COP, held in October 2024 in Cali, Colombia, was the biggest biodiversity

¹⁰ S.J. HOFFMAN et al., ‘International treaties have mostly failed to produce their intended effects’ (2022) 119(32) *Proceedings of the National Academy of Sciences*, p. e2122854119.

¹¹ Convention on Biological Diversity (CBD), Rio de Janeiro (Brazil), signed 5 June 1992, in force 29 December 1993, available at <https://www.cbd.int/convention/text> (Accessed 13 January 2026).

¹² CBD Art. 1.

¹³ Including the 2000 Cartagena Protocol on Biosafety, its 2010 Supplementary Protocol on liability and redress from damage arising from living modified organisms, and the 2010 Nagoya Protocol on access and benefit-sharing.

¹⁴ UN Conference on Trade and Development (UNCTAD), *Catching technological waves: innovation with equity*, Technology and Innovation report 2021, p. xviii.

¹⁵ L. PARKS and E. TSILOUMANI, ‘Transforming biodiversity governance? Indigenous peoples’ contributions to the Convention on Biological Diversity’ (2023) 280 *Biological Conservation*, p. 109933.

¹⁶ Approx. 65,000 delegates attended UNFCCC COP 29 (November 2024, Baku, Azerbaijan), with 83,000 at COP 28 (December 2023, Dubai, United Arab Emirates). See Carbon Brief, ‘Analysis: Which countries have sent the most delegates to COP29?’, 12 November 2024, available at <https://www.carbonbrief.org/analysis-which-countries-have-sent-the-most-delegates-to-cop29/> (Accessed 13 January 2025).

COP meeting ever, with over 23,000 registered participants,¹⁷ including multiple non-state actors, such as representatives of Indigenous Peoples and local communities, international and local NGOs, philanthropic organisations, industry, and researchers from diverse disciplines. This participation demonstrates that biodiversity is an issue with multiple interests and values at stake, and a concern for multiple actors, who consider that the COP provides a space worthwhile attending to exert influence and advance their objectives.

At the same time, acknowledging the limitations of the process arising from UN procedures and dominant narratives, Indigenous Peoples and civil society organisations have been steering counter-hegemonic parallel events: the Global Meeting for Climate and Life, or ‘anti-COP’, was organised by activists in Oaxaca, Mexico, as an alternative to the UNFCCC COP 29 in Baku, Azerbaijan, with a focus on grassroots solutions and denouncing the exclusionary nature of the official COP meeting and the prioritization of fossil fuel interests. During CBD COP 16, the ‘COP DiverGente’ and the ‘Ecoovida2024’ took place in Cali to give voice to the people and movements promoting different economies while noting that official COP meetings seek to conceal and greenwash the commercialisation of nature and cultural and biological diversity against the sovereignty of peoples.

While the biodiversity-related knowledge of Indigenous Peoples and local communities is recognised in the CBD text,¹⁸ it is rarely considered as equal to Western scientific knowledge in the decision-making process.¹⁹ However, their continued activism has arguably contested Western biodiversity-related knowledge and policy and placed their insights firmly on the negotiating table. Accordingly, CBD COP 16 adopted a decision²⁰ to establish a permanent Subsidiary Body on Article 8(j), which is the Convention provision concerning Indigenous Peoples, local communities, and their biodiversity-related knowledge, innovations and practices. The newly established Subsidiary Body succeeds the Open-ended Working Group on Article 8(j), a temporary structure that has convened for more than 20 years to address related issues.

In the decision, the COP acknowledges once more the unique role of Indigenous Peoples and local communities, their innovations, practices, and traditional

¹⁷ E. TSIOUMANI et al., ‘Summary of the 2024 UN Biodiversity Conference’, *IISD Earth Negotiations Bulletin* vol. 9, n° 855, 4 November 2024, available at <https://enb.iisd.org/sites/default/files/2024-11/enb09855e.pdf> (Accessed 13 January 2025).

¹⁸ CBD Art. 8(j).

¹⁹ The Convention’s Subsidiary Body on Scientific, Technical and Technological Advice (SBSTTA), aiming at providing scientific advice in the Western sense of the term, was established in 1994 in accordance with CBD Article 25.

²⁰ COP Decision 16/5, ‘Institutional arrangements for the full and effective participation of indigenous peoples and local communities in the work undertaken under the Convention on Biological Diversity’, UN Doc. CBD/COP/DEC/16/5, 1 November 2024.

knowledge, in the implementation of the Convention and its protocols. Their representatives and allies celebrated the outcome, with the International Indigenous Forum on Biodiversity (IIFB) declaring it an «unprecedented moment in the history of MEAs»²¹. Decades of efforts in international policy-making arenas to seek formal recognition of their cosmovisions have led to the creation of the Subsidiary Body, as an opportunity for their voices to be heard in these spaces.

Arguably, these openings can help address injustices faced by biodiversity stewards at the national and local levels and influence global biodiversity policies and international law.²² Nonetheless, they also bring challenges that demand moving beyond traditional scientific knowledge and developing a new relationship with nature. Technically complex processes with a lengthy history, such as the CBD, have the power to assimilate and alienate. In other words, it may be difficult for Indigenous Peoples to put forward solutions that remain true to their nature without falling into rhetoric or into business as usual. In addition, beyond the limitations inherent in international law-making, including government decision-making, power asymmetries touch upon questions of access to information, funding, legitimacy and language. In this light, the new subsidiary body offers promise, but no guarantee of more inclusive governance.

Furthermore, observer participation at CBD COP 16 revealed another central issue that warrants further exploration. We have noted a growing academic interest in biodiversity policy, with many researchers from various disciplines present during the event. Most of them, however, came from or were associated with universities in the Global North. Persistent financial inequalities are likely to continue shaping knowledge production, leaving Southern perspectives and knowledges marginalized and predominantly interpreted and mediated by Northern ones. This raises a crucial question: can we ensure that increased academic involvement does not reinforce existing privileges and expand inequalities?

II. MOVING BEYOND DOCTRINAL APPROACHES IN LEGAL SCHOLARSHIP AND BUILDING ON THE LEGACY OF TWAIL

International environmental law research has traditionally relied on doctrinal interpretations and remains anchored in positivist traditions. We argue that these methods obscure the historical and colonial roots of environmental governance, ignore the socio-economic inequalities embedded in international agreements, and

²¹ E. TSILOUMANI et al., above n. 17, p. 8.

²² I. HALL, 'Unmaking the Nature/Culture Divide: The ontological diplomacy of Indigenous Peoples and local communities at the CBD', in F. GIRARD, I. HALL and C. FRISON (eds.) *Biocultural Rights, Indigenous Peoples and Local Communities: Protecting culture and the environment*, London, Routledge, 2022, p. 112.

restrict knowledge production to Western legal epistemologies, thereby risking making scholarly outcomes both inefficient and unjust.

As a result of doctrinal methods, traditional international environmental law scholarship rarely analyses the colonial roots and impact of MEAs and fails to reflect the power imbalance in the creation and implementation of rights and obligations. By limiting the research material to legal texts, it excludes the voices of many actors involved in biodiversity stewardship and governance. In a sense, we argue that limiting the lawyer's research toolbox to a positivist and Eurocentric legal approach fails to enact the transformative power that the Law may have as a societal tool.

International law scholarship was late in addressing questions concerning the relationship between law and power, although admittedly, it was the first sub-discipline to do so within the general field of Law, where the positivist view, which asserts that law is rational and morally neutral, still prevails. Emerging in the 1990s, the school of thought and movement of TWAIL revealed the links of international law and its institutions with colonialism,²³ imperialism,²⁴ racism, global capitalism,²⁵ and historical and continued conditions of injustice. Guided by Antony Anghie, Makau Mutua, Balakrishnan Rajagopal and B.S. Chimni, among others,²⁶ TWAIL scholars showed that colonialism has profoundly shaped international law,²⁷ and that international law not only legitimised colonial and racist exploitation of peoples and territories in the name of a « civilization » perceived by the European mind but also developed mechanisms to prevent reparations.²⁸ Colonial legacies are maintained through economic and military interventions,²⁹ as well as through double standards in international criminal justice and investment protection. TWAIL analyses were soon accompanied by Marxist, feminist and Indigenous approaches. These movements linked a class approach to international law to Third World social movements and a theory of resistance,³⁰ engaged with

²³ M. TAHA, 'Decolonization in International Law', *Oxford Bibliographies*, 2019.

²⁴ J. GATHII, 'Imperialism, Colonialism, and International Law' (2007) 54(4) *Buffalo Law Review*, p. 1013.

²⁵ B.S. CHIMNI, 'Capitalism, Imperialism, and International Law in the Twenty-First Century' (2012) 14(1) *Oregon Review of International Law*, pp. 17-45; N. TZOUVALA, *Capitalism as Civilisation: A History of International Law*, Cambridge, Cambridge University Press, 2020.

²⁶ F. ZARBIYEV, 'Decolonisation and International Law', *Global Challenges*, 2021, available at <https://globalchallenges.ch/issue/10/decolonisation-and-international-law/> (Accessed 13 January 2025).

²⁷ A. ANGHIE, 'Francisco De Vitoria and the Colonial Origins of International Law' (1996) 5(3) *Social & Legal Studies*, pp. 321-336; A. ANGHIE, *Imperialism, Sovereignty and the Making of International Law*, Cambridge, Cambridge University Press, 2005.

²⁸ A. ANGHIE, 'The evolution of international law: Colonial and postcolonial realities' (2006) 27(5) *Third World Quarterly*, pp. 739-753.

²⁹ A. ORFORD, 'Locating the International: Military and Monetary Interventions after the Cold War' (1997) 38(2) *Harvard International Law Journal*, pp. 443-485.

³⁰ B.S. CHIMNI, 'Prolegomena to a Class Approach to International Law' (2010) 21(1) *European Journal of International Law*, pp. 57-82.

Third World feminisms and their impact on the global feminist agenda³¹ and discussed questions of indigeneity and settler colonialism.³²

Few scholars have applied these approaches to international environmental law and policy, even though, as Usha Natarajan and Julia Dehm point out, ‘the very origins of international law lie in doctrines put forward to allow private actors from the North to exploit natural resources in the South’.³³ The product of Western environmentalism, international environmental law is based on a conceptualisation of the ‘environment’ as separate from humans, and ‘nature’ as resource and property, as well as on notions of sovereignty, development and ownership that not only enable continued injustice and environmental catastrophe, but ‘reconfirm[s] the position of the West as the source of all acceptable meaning’.³⁴ It may have addressed the concerns of the Global South regarding historical responsibility for environmental harm in ideas such as the principle of common but differentiated responsibilities, but it has failed to apply these principles and to halt the destructive practices of the Global North.³⁵

Despite these contributions, legal scholarship remains defined mainly by the positivist view that law is morally neutral, thus applies equally to all, and is abstract rather than situated. In most formal legal education and research settings, taking a stand is frowned upon, whereas in legal practice, movement lawyering is a well-established form of public interest advocacy.³⁶ In addition, international law is portrayed as and promises to be, not only neutral but also universal, associated with the international community rather than with any particular state. As TWAIL scholars have shown, however, the promise of universality took the form of a particular set of values: the European values and thus those of the Global North. That is, Sundhya Pahuja explains, the values advanced by the First World were said to be ‘universal’, generally applicable and of common benefit. And although these values were themselves particular, that they were (successfully) positioned as ‘universal’ allowed the claims of the

³¹ V. NESIAH, ‘The Ground Beneath Her Feet: “Third World” Feminisms’ (2003) 4 pp. 30-38; A. ORFORD, ‘Feminism, Imperialism and the Mission of International Law’ (2002) 71(2) *Nordic Journal of International Law*, pp. 275-296.

³² A. BHATIA, ‘The South of the North: Building on Critical Approaches to International Law with Lessons from the Fourth World’ (2012) 14(1) *Oregon Review of International Law*, pp. 131-175; A.B.E. BAYOT, ‘Indigenous Peoples in International Law: Resistance, Refusal, Revolution’ (2023) 15(1) *European Journal of Legal Studies*, pp. 293-311.

³³ U. NATARAJAN and J. DEHM, ‘Introduction: Where is the Environment? Locating Nature in International Law’, in U. NATARAJAN and J. DEHM (eds.), *Locating Nature: Making and Unmaking International Law*, Cambridge, Cambridge University Press, 2022, p. 6.

³⁴ *Ibid.*, p. 10.

³⁵ *Ibid.*, pp. 2-11.; K. MICKELSON, above n. 8.

³⁶ Movement lawyering is a practice where lawyers collaborate with social movements with focus on building their power through integrated legal and political strategies. See S.L. CUMMINGS, ‘Movement Lawyering’ (2020) 27(1) *Indiana Journal of Global Legal Studies*, p. 87.

Third World to be understood as both ‘particular’ per se, or as purely ‘relative’ to the universal narrative.³⁷

The myths of the neutrality and universality of international law make it more difficult to question its ‘well-documented intimacy with the powerful’³⁸ and its role in reproducing coloniality³⁹ and the conditions of global capitalist expansion.⁴⁰ International environmental law is no different, with economic incentives often promoted as solutions to environmental challenges, as if capitalism could solve the problems it has caused.

III. BUILDING ON TRANSDISCIPLINARITY AND DECOLONIAL THEORY

A BANI world is prone to sudden failures without significant warning, giving no time for preparation. It often results from highly optimised, over-specialised, interconnected systems that are vulnerable to hazards. In 2019, we would never have imagined that a single disease could stop the world, but reality showed us the catastrophic socio-economic effects of a single virus in a deeply interconnected world. At the same time, we observed the need to collaborate and bring together diverse knowledge and stakeholders to develop a range of possible solutions.⁴¹ Clearly, a single government, institution or discipline could not address the problem alone. Unfortunately, unilateralism prevailed: the response was marked by nationalism, inequity in access to vaccines, and discriminatory, even racist, border closures, impacting mainly the Global South and exposing a structural crisis in international law⁴² that has been increasing during the time we are writing this contribution.

In recent years, collaborative transdisciplinary research has gained significant attention due to the limitations of traditional discipline-based approaches in addressing the complex interconnected problems of the Anthropocene.⁴³ Although

³⁷ S. PAHUJA, *Decolonising International Law: Development, Economic Growth and the Politics of Universality*, Cambridge, Cambridge University Press, 2011, p. 6.

³⁸ Ibid., p. 1.

³⁹ F. ZARBIYEV, above n. 26.

⁴⁰ N. TZOUVALA, above n. 25.

⁴¹ For an example of transdisciplinary analysis of agricultural production in Europe during the COVID pandemic, see N. LOODTS et al., ‘Résilience des systèmes alimentaires: pistes de réflexion pour redessiner nos territoires alimentaires en Europe à partir d’un cas d’étude’, in J. HERMESSE and O. SERVAIS (eds.) *Déconfiner l’Europe*, Paris, Karthala, 2024, pp. 57-98.

⁴² B.S. CHIMNI, ‘Crisis and International Law: A Third World Approaches to International Law Perspective’, in M.M. MBENGUE and J. D’ASPREMONT (eds.), *Crisis Narratives in International Law*, Leiden, Brill, 2022, pp. 40-53.

⁴³ M.G. LAWRENCE et al., ‘Characteristics, potentials, and challenges of transdisciplinary research’ (2022) 5(1) *One Earth*, pp. 44-61; T. DEDEURWAERDERE, *Transdisciplinary Research, Sustainability, and Social Transformation: Governance and Knowledge Co-Production*, Abingdon, Routledge, 2023.

there is no unified understanding of transdisciplinarity, shared elements exist. These include a focus on real-world, complex problems; the expected collaboration and mutual learning among academics from different disciplines, practitioners, policymakers and local stakeholders; and the imperative to bring these diverse understandings and cosmovisions into dialogue to co-produce socially robust knowledge in a transformative manner.⁴⁴ Despite their promising value, transdisciplinary collaborations face multiple challenges in their implementation, ranging from problematic interactions between academic and non-academic partners to disagreements over the nature of the problem under consideration and methodological standards, and difficulties in the scalability and legitimisation of results.⁴⁵ These challenges intensify in North-South collaborations, often reproducing existing power imbalances among the social and natural sciences, academic and societal actors⁴⁶ and ‘donor’ and ‘recipient’ researchers⁴⁷. The situation is more complex when working with Indigenous peoples and knowledge, as many of these collaborations end up encapsulating Indigenous knowledge fragments in Western paradigms,⁴⁸ thus reinscribing colonial orders in academic settings⁴⁹. Additionally, epistemological and ontological differences between Indigenous and non-Indigenous knowledge systems hinder recognition of the importance and interconnectedness of non-human entities.⁵⁰

Some scholars argue that leveraging the transformative potential of transdisciplinary collaborations requires a profound change that starts by confronting coloniality and dismantling its dehumanising forms of power, being and knowledges.⁵¹ A growing body of post/anti/decolonial literature has imagined and gestured towards other forms of research to confront the ongoing Western colonial legacies in knowledge production. By post/anti/decolonial literature, we refer to complementary bodies of work that interrogate the consequences of colonialism on societies and knowledges. Anti-colonialism is broadly defined as a theoretical

⁴⁴ M.G. LAWRENCE et al., above n. 43, p. 50.

⁴⁵ Ibid., p. 49.

⁴⁶ L. SCHMIDT and M. NEUBURGER, ‘Trapped between privileges and precariousness: Tracing transdisciplinary research in a postcolonial setting’ (2017) 93 *Futures*, pp. 54-67.

⁴⁷ J. BUHENDWA NSHOBLE, “‘Donor-Researchers’ and ‘Recipient-Researchers’: bridging the gap between researchers from the Global North and Global South”, March 2020, available at <https://www.gicnetwork.be/donor-researchers-and-recipient-researchers-bridging-the-gap-between-researchers-from-the-global-north-and-global-south/> (Accessed 13 January 2025).

⁴⁸ S. MULLER, “‘Two ways’: Bringing Indigenous and Non-Indigenous Knowledges together”, in J.K. WEIR (ed.), *Country, Native Title and Ecology*, Canberra, ANU E Press, 2012, pp. 59-79.

⁴⁹ B. CHILISA, ‘Decolonising transdisciplinary research approaches: an African perspective for enhancing knowledge integration in sustainability science’ (2017) 12(5) *Sustainability Science*, pp. 813-827.

⁵⁰ P. WALCKIERS, ‘Vers un “droit des relations” entre humains et non-humains comme alternative aux droits de la nature’ (2022) 84(1) *Louvain Law Review*, p. 9-30.

⁵¹ N. MALDONADO-TORRES, ‘Ethnic Studies as Decolonial Transdisciplinarity’ (2019) 42(2) *Ethnic Studies Review*, pp. 232-244.

framework, analytical tool, and place-based practice oriented toward resisting and dismantling colonial systems and structures.⁵² Post-colonial studies explore themes of identity, power and resistance in formerly colonised regions, focusing on the economic, political, cultural, and psychological consequences of colonialism and imperialism. They emerged in the 1960s to counter the colonial legacies of the British Empire, and were influenced by the works of Homi Bhabha, Gayatri Spivak and Edward Said. The decolonial theory, developed by Latin American scholars in the 1990s, further explores coloniality as a global pattern of capitalist power shaped by patriarchal and racist social hierarchies that arise from colonialism. Colonialism and coloniality are thus two distinct concepts. Colonialism refers to a relationship of political and economic domination based on the plunder, dispossession, and appropriation of the resources of nations for the benefit of minorities considered racially superior.⁵³ In contrast, coloniality describes the matrix of power that arose from colonialism and continues to shape culture, labour, social interactions, knowledge production and nature, even beyond the formal end of colonial rule.⁵⁴ This coloniality of power is a complex set of logic that includes the dehumanisation of racialised people⁵⁵ and the anthropocentric reasoning that disregards non-human beings and their entangled relation with humans.⁵⁶

Few scholars have approached international environmental law through a decolonial lens, mainly concerning climate change.⁵⁷ In broader social science circles, scholars of political ecology and environmental justice acknowledge the legacies of colonialism in environmental struggles in the Global South, including issues related to land and resource access, but rarely consider coloniality as a continuing source of violence.⁵⁸ An exception is the growing body of Latin American

⁵² N. NUNN and M. WHETUNG, 'Anticolonialism', in A. KOBAYASHI (ed.), *International Encyclopedia of Human Geography (Second Edition)*, Amsterdam, Elsevier, 2020, pp. 155-158.

⁵³ R. GROSFUGUEL, 'Del "extractivismo económico" al "extractivismo epistémico" y "extractivismo ontológico": una forma destructiva de conocer, ser y estar en el mundo', *Tabula Rasa*, 2016, pp. 123-143.

⁵⁴ N. MALDONADO-TORRES, 'Outline of Ten Theses on Coloniality and Decoloniality' (2016) 26 *Foundation Frantz Fanon* pp. 1-37, available at <http://frantzfanonfoundation-fondationfrantzfanon.com/article2360.html> (Accessed 13 January 2025).

⁵⁵ R. ICAZA, 'Social struggles and the coloniality of gender', in O.U. RUTAZIBWA and R. SHILLIAM (eds.), *Routledge Handbook of Postcolonial Politics*, Abingdon, Routledge, 2018, pp. 58-71.

⁵⁶ J. KERR and V. ANDREOTTI, 'Recognizing More-Than-Human Relations in Social Justice Research: Gesturing towards Decolonial Possibilities', *Issues in Teacher Education*, 2018, pp. 53-67.

⁵⁷ D. CASTRO, 'The Colonial Aspects of the International Environmental Law Treaties as Promoters of Continuous Structural Violence' (2017) 5(2) *Groningen Journal of International Law*, pp. 168-190; J. WILKENS and A.R.C. DATCHOUA-TIRVAUDEY, 'Researching climate justice: a decolonial approach to global climate governance' (2022) 98(1) *International Affairs*, pp. 125-143; J. DEHM, 'Carbon colonialism or climate justice? Interrogating the international climate regime from a TWAIL perspective' (2016) 33(3) *Windsor Yearbook of Access to Justice*, pp. 129-161.

⁵⁸ I. RODRIGUEZ, 'Latin American Decolonial Environmental Justice', in B. COOLSAET (ed.), *Environmental Justice. Key Issues*, Abingdon, Routledge, 2020, pp. 78-93.

literature that addresses this connection.⁵⁹ Building on these decolonial ideas, we provide glimpses to inspire students and researchers to rethink and re-imagine research approaches in international biodiversity law and policy.⁶⁰ Our goal is to encourage greater engagement with decolonial thought and praxis within the field.

IV. UNFOLDING DECOLONIAL RESEARCH APPROACHES IN INTERNATIONAL ENVIRONMENTAL LAW

Decolonial scholars emphasise that decolonising research involves not only changing methodologies but also transforming our research paradigm. Methodologies are not just ways to collect and analyse data; they also articulate our research paradigm,⁶¹ and the way we build, structure, and validate knowledge.

Decolonising our methodologies and research paradigm starts by abandoning the belief that knowledge is universal, objective and neutral.⁶² These positivist claims of objective science promoted by the modern Western view of knowledge remain foundational elements of epistemic privilege and power structures of domination,⁶³ while the positivist paradigm dominates science production. Instead, critical feminist and decolonial scholars propose to develop situated, contextualised, embodied, engaged and change-oriented knowledge. *Situated knowledge* challenges the notions of universality, objectivity and neutrality, arguing that knowledge is shaped by the social and cultural contexts in which it is produced.⁶⁴ Critical feminist scholars argue that this requires recognising that knowledge and actions are shaped by our bodies, influenced by history and embedded in context-specific power dynamics.⁶⁵ This paradigm shift implies moving beyond Cartesian dualism (e.g. subject-object, body-mind, true-false).

⁵⁹ B. ROY and K. HANAČEK, 'From the Environmentalism of the Poor and the Indigenous Toward Decolonial Environmental Justice', in S. VILLAMAYOR-TOMAS and R. MURADIAN (eds.), *The Barcelona School of Ecological Economics and Political Ecology: A Companion in Honour of Joan Martinez-Alier*, Cham, Springer International Publishing, 2023, pp. 305-315.

⁶⁰ C. FRISON, 'Décoloniser le droit de la biodiversité pour sortir du Plantationocène : vers un droit écologique', *Revue Juridique de l'Environnement*, Numéro spécial 2025, 'Le droit en Anthropocène. Le droit comme levier de changement pour une meilleure protection de l'environnement', forthcoming 2026.

⁶¹ S. WILSON, *Research is Ceremony. Indigenous Research Methods*, Nova Scotia, Fernwood Publishing, 2008.

⁶² A. BURMAN, 'Places To Think With, Books To Think About: Words, Experience and the Decolonization of Knowledge in the Bolivian Andes' (2012) 10 *Human Architecture*, pp. 101-120.

⁶³ J. KERR and V. ANDREOTTI, above n. 56; R. GROSGOUEL, 'The Structure of Knowledge in Westernized Universities : Epistemic Racism / Sexism and the Four Genocides / Epistemicides of the Long 16th Century' (2013) 11 *Human Architecture*, pp. 1-19.

⁶⁴ D. HARAWAY, 'Situated Knowledges: The Science Question in Feminism and the Privilege of Partial Perspective' (1988) 14(3) *Feminist Studies*, pp. 127-161.

⁶⁵ T. WINKLER and J. DUMINY, 'Planning to change the world? Questioning the normative ethics of planning theories' (2014) 15(2) *Planning Theory*, pp. 111-129.

Decolonial praxis aims not for a diversity of knowledge mediated by whiteness, but rather to transcend Western forms of knowledge and governance, thereby dismantling colonial and imperial structures that affect our societies⁶⁶ and are reinforced by Western canons.

This change also entails revising the purpose of creating knowledge. Indigenous and decolonial scholars reject the idea of producing knowledge for its own sake; they believe knowledge should meaningfully contribute to societal change by challenging existing norms through tangible actions.⁶⁷ Knowledge must be actionable and justice-oriented, guided by deep reciprocal embodied engagement,⁶⁸ thus questioning traditional research practices, which are grounded in neutrality and objectivity. This justice-oriented research requires students and researchers to develop intellectual, affective, and relational capacities⁶⁹ and to align their work with a commitment for accountability to marginalised communities that are most affected by the impacts of the planetary crisis. This transition assumes that global justice and collaboration are essential to addressing global issues, in contrast to capitalism as the dominant economic system and the current geopolitical landscape, which are marked by increased individualism, antagonism and unilateralism. At the same time, broad assumptions such as ‘we are all in this together’ used in policy discourse often obscure the profound reality of unequal resource distribution and differentiated impacts of environmental pressures.⁷⁰

In international environmental law research, a dual shift is essential: it involves transforming both the law itself, international law in particular, and the knowledge that shapes such law. International law has been primarily shaped not only by Western states, including colonial powers, but also by Western lawyers and legal scholars. It is thus shaped by a particular set of knowledge born in the law schools of the North. Similarly, international environmental lawyers tend to adopt an ahistorical stance, failing to recognise the North-South divide as a central debate in the discipline⁷¹ and instead discussing each deadlock in negotiations or policy development on technical merits only. Disrupting and dismantling coloniality in law schools, we argue, is a starting point for the decolonisation of

⁶⁶ S. XAVIER et al., ‘Decolonizing Law in the Global North and South’, in S. XAVIER et al. (eds.), *Decolonizing Law: Indigenous, Third World and South Perspectives*, Abingdon, Routledge 2021, pp. 1-14.

⁶⁷ F. CORNISH et al., ‘Participatory action research’ (2023) 3 *Nature Reviews Methods Primers*, Art. no. 34.

⁶⁸ L.B. SIMPSON, ‘Kwe As Resurgent Method’ (2022) 1 *Feminist Asylum*, pp. 37-42.

⁶⁹ S. STEIN et al., ‘Beyond colonial futurities in climate education’ (2023) 28 *Teaching in Higher Education*, pp. 987-1004.

⁷⁰ J. WILKENS and A.R.C. DATCHOUA-TIRVAUDEY, above n. 57; R. SALIH and O. CORRY, ‘Displacing the Anthropocene: Colonisation, extinction and the unruliness of nature in Palestine’ (2022) 5(1) *Environment and Planning E: Nature and Space*, pp. 381-400.

⁷¹ K. MICKELSON, above n. 8, p. 54.

legal knowledge, including its complicity with powerful actors, its mechanisms for sustaining unequal distribution of power and resources and its rationalisation of violence and injustices.⁷² This process enables unlearning colonial and imperial modes of knowing, reconnecting with the land⁷³ and fostering a new legal pluralism that promotes a more equitable relationship with nature⁷⁴ and other onto-epistemologies.⁷⁵

Decolonising our methodologies and research paradigm further requires seeing the realities of the current neoliberal university and joining the fight against them. In research spaces, constant pressure and scrutiny combined with precarity and often low pay have become the norm in a sector that, despite its realities, is still considered prestigious.⁷⁶ Recent studies show that a significant number of scholars, mainly from underrepresented groups, such as women and particularly women of colour, experience mental health problems and anxiety due to discrimination, harassment and isolation.⁷⁷ Marginalised communities, such as Indigenous and afro-descendant peoples who carry the trauma of colonialism, continue to suffer discrimination and erasure because of dehumanising academic practices. These practices use damage-and-deficit-centred research frameworks⁷⁸ to (re) present those communities as broken, ignoring their wisdom and agency⁷⁹ while following an extractivist colonial mindset; they extract, assimilate and consume fragments of Indigenous knowledge for career development and individual privileges.⁸⁰

Decolonising research involves refusing the neoliberal university and its extractivist practices. It seeks to disrupt damage-centred narratives perpetuating the dehumanisation and pathologisation of marginalised communities⁸¹ while also working to dismantling the structures and processes that create hierarchies of

⁷² F. ADÉBISI, *Decolonisation and Legal Knowledge*, Bristol, Bristol University Press, 2023, pp. 108-127.

⁷³ S. XAVIER et al., above n. 66.

⁷⁴ H. DANCER, 'Harmony with Nature: towards a new deep legal pluralism' (2021) 53(1) *The Journal of Legal Pluralism and Unofficial Law*, pp. 21-41.

⁷⁵ P. WALCKIERS, above n. 50.

⁷⁶ O. MASON and N. MEGORAN, 'Precarity and dehumanisation in higher education' (2021) 14(1) *Learning and Teaching*, pp. 35-59.

⁷⁷ S. TÄUBER, 'Women Academics' Intersectional Experiences of Policy Ineffectiveness in the European Context' (2022) 13 *Frontiers in Psychology*, available at <https://doi.org/10.3389/fpsyg.2022.810569> (Accessed 13 January 2026).

⁷⁸ Damage-and-deficit-centred research aims to depict communities as broken and defeated. It invites marginalised people to share their experiences but is interested only in their pain and suffering, ignoring their agency, hope and wisdom. E. TUCK and K.W. YANG, 'R-words: refusing research', in D. PARIS and M.T. WINN (eds.) *Humanizing Research: Decolonizing Qualitative Inquiry with Youth and Communities*, London, Sage Publications, 2014, pp. 223-248.

⁷⁹ Ibid.

⁸⁰ R. GROSFUGUEL, above n. 53, p. 139.

⁸¹ E. TUCK and K.W. YANG, above n. 78, p. 415.

individuals, labour and knowledges.⁸² It refuses the delegitimisation and elimination of non-Western ways of knowing and being by re-centring alternative onto-epistemologies, often excluded and delegitimised because they deviate from the Western canons.⁸³ This approach advocates transformative change emphasising the importance of recognising knowledge pluriversality and valuing non-Western epistemologies equally,⁸⁴ all while working to dismantle colonial frameworks within academia.

Therefore, gesturing towards decolonial methodologies involves adopting flexible, diverse and engaged research approaches. Indigenous decolonial scholars advocate the use of inquiry strategies rather than predefined, extractivist and fixed methodologies. These strategies act as roadmaps that guide us towards our goals while allowing for change and adaptation along the way.⁸⁵ It also requires uncovering power dynamics by examining who sets the research agendas, who controls the resources, what constitutes data, who owns data, how it will be collected, for what purpose, who is often overlooked, and who is most affected by the research issue, all while addressing historical and current inequities.⁸⁶

In international environmental law scholarship, gesturing towards decolonial methodologies is an ethical and political endeavour aimed at achieving social, epistemic and environmental justice and transformation by examining to whom we are accountable. This process must begin by analysing and unpacking the entrenched colonial roots of contemporary market-based conservation policies and notions that perpetuate exploitative power relations in nature-society interactions, thereby deepening inequalities and global injustices.⁸⁷ This deconstruction requires nurturing safe spaces for collective reflexivity to recognise our complicity in reproducing and perpetuating (neo)colonial patterns in academia despite our good intentions.⁸⁸ This collective reflexivity can also help determine whether research is the necessary intervention,⁸⁹ under what terms it should be conducted, and for what purpose.

⁸² S. GRANDE, 'Refusing the university', in E. TUCK and K.W. YANG (eds.), *Toward What Justice?: Describing Diverse Dreams of Justice in Education*, Abingdon, Routledge, 2018, pp. 47-65.

⁸³ V. MACHADO DE OLIVEIRA, *Hospicing Modernity. Facing Humanity's Wrongs and the Implications for Social Activism*, Berkeley, North Atlantic Books, 2021, pp. 15-28.

⁸⁴ C. BOIDIN, J. COHEN and R. GROSFOGUEL, 'Introduction: From University to Pluriversity: A Decolonial Approach to the Present Crisis of Western Universities' (2012) 10 *Human Architecture*, pp. 1-6.

⁸⁵ S. WILSON, above n. 61, p. 39.

⁸⁶ E. TUCK and M. GUISHARD, 'Uncollapsing Ethics: Racialized Scientism, Settler Coloniality, and an Ethical Framework of Decolonial Participatory Action Research', in T.M. KRESS, C. MALOTT and B.J. PORFILIO (eds.), *Challenging Status Quo Retrenchment: New Directions in Critical Research*, Charlotte, Information Age Publishing, 2013, pp. 3-27.

⁸⁷ Y.A. COLLINS et al., 'Plotting the coloniality of conservation' (2021) 28(1) *Journal of Political Ecology*, pp. 1-22.

⁸⁸ K. MERTENS, A. MORENO-CELY and V.N. NYAKATO, 'Against self-reflexive confessions: collective dialogues to progressively transform academic North-South collaborations' (2025) 37(1) *The European Journal of Development Research*, pp. 219-240.

⁸⁹ E. TUCK and K.W. YANG, above n. 78.

Decolonial gestures in international biodiversity law advocate for policies that are sensitive to gender, ethnicity and race, aiming to address power asymmetries within legal systems. They adopt methodological approaches that incorporate intersectional analysis to understand how different gender and ethnic roles shape knowledge production and contributions to biodiversity conservation.⁹⁰ These approaches also examine how multiple forms of discrimination, such as those based on gender, race, and ethnicity, intersect and impact biodiversity governance. They emphasise equity and highlight the vital role of women and Indigenous Peoples in conservation efforts.⁹¹ Decolonial strategies employ relationality and intersectionality to link biodiversity law with economic and social justice, challenging extractive research through collaborative and non-extractive practices.

V. BUILDING RELATIONAL RESEARCH: LEARNING FROM INDIGENOUS PEOPLES' RELATIONSHIP WITH NATURE

In policy spaces where international environmental law is being shaped, including the CBD, the supposed universality of knowledge, both scientific and legal, is increasingly questioned. Knowledge and ways of knowing emerge as a site of contestation, as different actors, including developed and developing states, NGOs, Indigenous Peoples, local communities, and researchers, try to be heard in policy-making,⁹² despite the limitations of international law-making noted above.

Many Indigenous Peoples' knowledge systems view humankind as part of nature, and attribute intrinsic worth to nature rather than seeing it as a service provider, often for the benefit of the few.

In this regard, Indigenous scholar Daniel Wildcat questions:

Can you imagine a world where nature is understood as full of relatives not resources, where inalienable rights are balanced with inalienable responsibilities and where wealth itself is measured not by resource ownership and control, but by the number of good relationships we maintain in the complex and diverse life-systems of this blue green planet?⁹³

Wildcat asserts that Indigenous peoples can do it. Still, the mainstream socio-economic paradigm cannot account for these relationships or tends to disregard this interconnectivity between humans and nature. In view of the pressing environmental

⁹⁰ D. ARMITAGE et al., 'Governance principles for community-centered conservation in the post-2020 global biodiversity framework' (2020) 2(2) *Conservation Science and Practice*, p. e160.

⁹¹ Ibid.

⁹² J. WILKENS and A.R.C. DATCHOUA-TIRVAUDEY, above n. 57.

⁹³ D.R. WILDCAT, 'Introduction: Climate change and indigenous peoples of the USA' (2013) 120 *Climatic Change*, p. 515.

challenges, mainstream approaches continue to focus on economic growth through 'green solutions' such as biofuels and biodiversity or carbon offsets, or on controlling nature by promising technological solutions, which the critical literature calls 'technofixes'. Technofixes refer to technological applications that promise to alleviate specific consequences of a broader socio-economic and political challenge, such as climate change or biodiversity loss, that involve a series of risks and inefficiencies. They tend to divert attention from the root causes of the challenge, ignore the complexities of different situations and needs, and deepen inequalities. Importantly, they generally fail to deliver on their promise because they are driven by profit and entail unintended consequences that are both unavoidable and unpredictable.⁹⁴

Ecocritical scholars further argue that the planetary challenges and the neglect of non-human entities stem from the prevailing Western relationality. This dominant relationality fails to acknowledge ethical relationships and responsibilities towards both human and non-human beings.⁹⁵ In contrast, it is linked to an extractivist mindset that takes (steals) anything valuable (knowledge, labour, resources, nature) for accumulation, assimilation and use in the market economy without acknowledging or caring about the people and knowledge behind it.⁹⁶ This extractivist and empire-making model is incompatible with a just and prosperous life for all.

Indigenous and decolonial scholars reject the idea of separability between humans and nature, which is based on the premise of the superiority of 'certain' human beings over nature, thereby granting them the right to conquer, dominate, own, manage, and control.⁹⁷ Instead, they argue that knowledge is produced within multi-layered place-based relationships between people, other-than-human beings and more-than-human ancestors. These multi-layered relationships define what Indigenous scholars name relationality. This relational perspective considers three types of relationships: between land (Mother Earth) and people, between people and spiritual beings, and among people. In these interactions, people and communities are responsible for ensuring the balance in social relations.⁹⁸ Indigenous Peoples understand this relationality as an ethic of responsibility that decentres human beings and focuses on respectful and caring relationships among entities.⁹⁹

⁹⁴ M. HUESEMANN and J. HUESEMANN, *Techno-fix: why technology won't save us or the environment*, Gabriola Island, New Society Publishers, 2011; N. VOULVOULIS and M.A. BURGMAN, 'The contrasting roles of science and technology in environmental challenges' (2019) 49(12) *Critical Reviews in Environmental Science and Technology*, pp. 1079-1106.

⁹⁵ J. KERR and V. ANDREOTTI, above n. 56, p. 79.

⁹⁶ R. GROSFUGUEL, above n. 53, p. 133.

⁹⁷ V. MACHADO DE OLIVEIRA, *Hospicing Modernity. Facing Humanity's Wrongs and the Implications for Social Activism*, Berkeley, North Atlantic Books, 2021, pp. 15-28.

⁹⁸ M. GRAHAM, 'Aboriginal notions of relationality and positionalism: A reply to Weber' (2014) 4 *Global Discourse*, pp. 17-22.

⁹⁹ L. TYNAN, 'What is relationality? Indigenous knowledges, practices and responsibilities with kin' (2021) 28 *Cultural Geographies*, pp. 597-610.

Thus, relationality is characterised by empathy and connectedness and by accepting each other's uniqueness without trying to merge, unify, or even necessarily agree on everything.¹⁰⁰ In this sense, decolonising relations involves disarming power and privileges, which can be a pathway to open possibilities for deep reciprocity, pluriversality, and more just co-existence across differences. When it comes to legal education, 'to break free from previous modes of knowledge production, and prioritize relationality, requires creativity and innovation as well as transgression and disobedience'.¹⁰¹

How can we build this relationality, pluriversality and co-existence in international biodiversity law and policy? Some scholars argue that legal pluralism could pave the way for recognising the co-existence of multiple legal systems, including Indigenous legal traditions and customary laws. However, the challenge lies in the unequal power relationships inherent in state-centred legal reforms, often resulting in the double colonization of people and nature due to the dominance of state normative frameworks.¹⁰² Helen Dancer, in particular, asserts the need for a new deep legal pluralism to decentralise anthropocentric views of nature and reduce states' dominance in environmental law development by acknowledging diverse ontologies.¹⁰³

Still, given the state-centric nature of international law, legal scholars tend to view any opening for Indigenous participation in the CBD as an advancement and opportunity for change. Claire Charters, for instance, notes that 'Indigenous Peoples have challenged the colonial association of international legality with positivism and state-centrism'.¹⁰⁴ Reviewing the achievements of Indigenous Peoples and local communities in the negotiations that led to the adoption of the CBD Nagoya Protocol on access and benefit-sharing,¹⁰⁵ Kabir Bavikatte and Daniel Robinson interpret the recognition of local-level actions and community protocols as creating a collaborative space that opens 'the door in international law to legal pluralism and self-determination'.¹⁰⁶ In this context, we believe that new generations of international (environmental) legal scholars can use these openings and contribute to connecting marginalised communities and to serving

¹⁰⁰ M. GRAHAM, above n. 98, p. 20.

¹⁰¹ F. ADÉBISI, above n. 72, p. 133.

¹⁰² H. DANCER, above n. 74, p. 31.

¹⁰³ *Ibid.*, p. 28.

¹⁰⁴ C. CHARTERS, 'The sweet spot between formalism and fairness: indigenous peoples' contribution to international law' (2021) 115 *AJIL Unbound*, p. 124.

¹⁰⁵ Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the CBD, Nagoya (Japan), signed 29 October 2010, in force 12 October 2014, available at <https://www.cbd.int/abs/text> (Accessed 13 January 2025).

¹⁰⁶ K. BAVIKATTE and D.F. ROBINSON, 'Towards a people's history of the law: biocultural jurisprudence and the Nagoya Protocol on Access and Benefit Sharing' (2011) 7 *Law Environment and Development Journal*, pp. 35-51.

as accomplices in the struggles of Indigenous peoples and local communities. However, they must first unlearn colonial ways of knowing and being. This would require developing into activist researchers committed to resisting, confronting and dismantling colonial and oppressive societal systems, while crossing disciplinary and nation-state borders, transcending Western notions of law and governance and moving beyond individualistic goals.

CONCLUDING REMARKS: TOWARD A PARADIGM SHIFT IN LEGAL RESEARCH

Colonisation was not an ‘unhappy incident’ in the history of international law; it was foundational to its very development. International law emerged as a tool for legitimising colonial extraction, structuring global inequalities and facilitating the continued plunder of natural resources from the Global South. Despite claims of neutrality and universality today, international environmental law remains deeply entangled with neocolonial economic structures, market-based conservation approaches, and state-centric governance models that reproduce global inequalities rather than dismantle them.

In the face of accelerating environmental collapse, the persistence of doctrinal and positivist approaches in legal scholarship has led to a failure to challenge the root causes of the planetary challenges. Instead of recognising law as a neutral instrument, we argue that it must be understood as a historically contingent and deeply political field that has served as a mechanism of domination and, paradoxically, as a site of resistance and transformation. The Global South, Indigenous Peoples, and marginalised communities have long engaged with international law, contesting extractivist models and reclaiming epistemic and ecological sovereignty.

This article has demonstrated how decolonial approaches, rooted in TWAIL and Indigenous approaches, offer pathways to disrupt legal structures that uphold coloniality. By reimagining legal frameworks beyond state-centric, anthropocentric, and market-driven paradigms, these approaches advocate for relational, pluralistic, and justice-oriented biodiversity governance. They foreground alternative epistemologies, challenge power asymmetries, and create space for transformative ecological and legal imaginaries that transcend the dominant Western worldview.

Moving towards a genuinely decolonial praxis in international biodiversity law requires more than theoretical critique; it demands fundamental shifts in legal education and research methodologies. Scholars and practitioners must engage in deep reflexivity, recognise their complicity in reproducing colonial knowledge hierarchies, and actively work toward dismantling exclusionary structures. This means advocating for real pluriversal knowledge systems, fostering legal pluralism

that genuinely revalorise Indigenous legal traditions, and resisting the instrumentalisation of biodiversity for capitalist accumulation.

The urgency of the planetary collapse in a BANI world calls for a legal and epistemic revolution that redefines environmental governance as a space of ethical, relational, and collective responsibility rather than a site of regulation and control. In a world marked by increasing uncertainty and precarity, international biodiversity law must be reoriented toward sustaining life, restoring justice, and imagining ecological futures beyond coloniality.

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