



## Investigating Challenges of Decolonising the Legal Sciences Curriculum in a University of Technology in Gauteng Province

Cross Theledi\*, Jeremiah Madzimure\*\*, Teboho P. Bojabotseha\*\*\*

\* MA Scholar, Department of Education, Vaal University of Technology, Gauteng, South Africa, [theledi7@gmail.com](mailto:theledi7@gmail.com)

\*\* Lecturer, Centre for Academic Development, Vaal University of Technology, Gauteng, South Africa, [jeremiahm@vut.ac.za](mailto:jeremiahm@vut.ac.za)

\*\*\* Lecturer, Department of Tourism and Integrated communication, Vaal University of Technology, Gauteng, South Africa, [tebohog@vut.ac.za](mailto:tebohog@vut.ac.za)

### ARTICLE INFO

#### Article history:

Submitted 13.07.2024

Accepted 28.11.2024

Published 31.12.2024

Volume No. 11

Issue No. II

ISSN (Online) 2414-8512

ISSN (Print) 2311-293X

DOI:

#### Keywords:

Decolonisation,  
Curriculum,  
Deconstruction,  
Reconstruction,  
Indigenous People,  
Customary Laws,  
Indigenous Laws, Legal  
Sciences.

### ABSTRACT

*The study explored the challenges of decolonisation the Legal Sciences curriculum at a University of Technology (UoT) in Gauteng Province and provided recommendations and strategies to resolve the challenges in question. The study supports the decolonisation of the curriculum, aiming to disrupt and change Eurocentrism. The study employed a qualitative research approach focusing on exploring and understanding phenomena in-depth, typically through non-numerical data such as interviews, observations, and textual analysis. Thematic analysis was employed for data analysis. Eight (8) participants were purposefully sampled, as the study necessitated selecting individuals capable of providing dependable responses to tackle the research issue. The study highlighted various challenges hindering the process of decolonising the Legal Sciences curriculum such as maladministration, resistance to change, the gap between theory and practice, and the complexities of defining what aspects of the curriculum need to be decolonised. Other challenges includes insufficient research, a lack of clear guidance, and cultural resistance to adopting African-centred models. The causes of these challenges extend to issues of diversity, cultural backgrounds, racism, inadequate professional development, ageism, and a lack of majority parliamentary support for constitutional amendments. The study calls for a comprehensive reassessment to modernize HE systems and address issues like the theory-practice imbalance, lack of guidance, and resistance to change. The study advocates for replacing colonial content with national initiatives and emphasises the importance of governance reforms, research initiatives, and collaboration with experts. The study concludes that decolonisation of the curriculum is feasible, however, it must be achieved through a holistic strategy that includes advisory committees and enhanced learning facilities. The study suggests establishing a Youth Advisory Board (YAB), adopting inclusive educational methods, and balancing theory with practice to improve academic capacity. It also recommends targeted research, collaboration, and policy reforms, with future research expanding to assess impacts on various South African public universities.*



## Introduction

In the realm of Higher Education (HE) in South Africa, the concept of decolonisation has emerged as a central and contentious topic of discourse and deliberation. Decolonisation is delineated as "the unravelling of colonial governance following the attainment of independence by colonial nations" (Le Grange, 2019). Within the South African context, 'decolonisation' denotes the concerted effort to dismantle the legacies of colonization, apartheid, and white minority rule subsequent to the democratic empowerment of the country's Black majority (de Beer, 2019). The impetus to decolonize the HE sector gained significant traction in 2015 amidst the #FeesMustFall Movement (Du Plessis, 2021). Despite the advocacy for decolonising the curriculum spurred by the #2015FeesMustFall campaign and subsequent protests, the Higher Education (HE) curriculum in South Africa remains deeply entrenched in Western and colonial paradigms, with the process of deconstruction and reconstruction of the curriculum persisting (Chikane, 2018). This perpetuates the enduring legacy of apartheid and colonialism within the country's HE curriculum. Consequently, race and class continue to exert major influence over HE, perpetuating Western epistemologies while marginalizing the perspectives and knowledge systems of previously colonized African Indigenous Peoples (Heleta, 2016). The #FeesMustFall movement of 2015 has reinvigorated efforts to decolonize HE, underscoring the persistence of an unchanged curriculum despite prior calls for its decolonisation (Du Plessis, 2021). Many Higher Education Institutions (HEIs) remain bastions of colonialism, entrenched in Western disciplinary frameworks, and resistant to reform or transformation (Godsell, Chikane & Mpofu-Walsh, 2016).

African students predominantly attend Higher Education Institutions (HEIs) situated within their communities, hence, effective teaching and learning in these institutions should align with the prevalent African contexts (Fomunyam, 2017). The call for decolonising education in South African academic institutions is rooted in the pursuit of justice, aiming to eradicate educational disparities and ensure accessibility for all within these HEI communities. Nonetheless, the curriculum in many South African HEIs persists as a vestige of colonialism, despite the dissolution of colonial and apartheid legacies that historically governed the education system (Heleta, 2016). Predominantly structured upon colonial, racial, and Western cognitive frameworks, these institutions perpetuate Western privilege and uphold white supremacy (Heleta, 2016). The decolonisation of the HE curriculum necessitates the incorporation of Indigenous and customary legal systems alongside Western legal traditions, particularly in the realm of legal sciences. Currently, traditional universities and Universities of Technology (UoTs) in South Africa predominantly emphasize Roman-Dutch and English common law in their legal curricula, neglecting Indigenous legal systems (Nienaber, 2018). Unlike traditional universities, UoTs often lack courses on African Customary Laws or Indigenous Laws, focusing instead on business and commercial law to prepare students for the corporate sphere (Anwana, 2022). This emphasis, described by Fomunyam and Teferra (2017) as 'economic responsiveness', prioritizes training for economic roles over a holistic societal engagement (Anwana, 2022).

To redress these imbalances, the legal sciences curriculum at UoTs should integrate traditional and customary laws as legitimate sources of legal knowledge (Himonga & Diallo, 2017). Recognizing customary legal institutions such as the 'Lekgotla' and 'Imbizo' as authoritative within their respective communities is crucial (Himonga & Diallo, 2017). Accordingly, Indigenous legal customs should be represented in the Legal Sciences curriculum across South African HEIs (Himonga & Diallo, 2017). This study examines the challenges encountered by a Gauteng Province HEI in decolonising the legal sciences curriculum and proposes strategies for its successful deconstruction and reconstruction. Integration of African Indigenous and South African customary laws into legal curricula, alongside recommendations for UoTs to establish law faculties akin to traditional universities and introduce courses on African legal traditions, are advocated as pivotal steps toward decolonising the curriculum (Himonga & Diallo, 2017; Anwana, 2022; Nienaber, 2018).

## Literature Review

This literature review addresses four main ideas: the decolonisation of South African higher education; the decolonisation of the legal sciences curriculum in South Africa; the challenges encountered in decolonising the curriculum; and the success of decolonising the legal sciences curriculum in HE. An overview of these ideas can be seen below:

### Decolonisation of Higher Education in South Africa

Decolonisation, as defined by Le Grange (2019), entails the "undoing of colonial governance when colonial countries attain independence". Ndamane (2018) characterises it as a process of "raising the consciousness of the oppressive state that Indigenous people live in by exposure to a more realistic account of the history and by identifying an enemy that is creating and maintaining that oppression." Grosfoguel (2007) describes decolonisation as the establishment of independent administrations, eradication of oppressive structures, and dissolution of colonial institutions (Albertus, 2019). The #FeesMustFall movement, initiated by students in 2015 and 2016, advocated for decolonising Higher Education (HE)

initiatives, including reducing or abolishing accommodation, tuition, and registration fees (Becker, 2016). Additionally, students demanded an end to racism and neoliberal outsourcing of university support functions during this period (Becker, 2016). However, there remains ambiguity in defining decolonisation and reforming HEIs, and dissatisfaction persists among Black communities surrounding these institutions due to a lack of representation and inclusivity (Mbembe, 2015). Albertus (2019) emphasizes the need to eliminate colonial representation and combat anti-Black racism within historically white HEIs to advance decolonisation efforts.

While some organisations advocate for alternative curricular structures, Sayed, Motala, and Hoffman (2017) stress the importance of addressing silences in discourse, particularly regarding teacher training programs and their role in decolonising HEIs. Despite widespread calls for free decolonized education, divergent perspectives exist among HEI students regarding what constitutes a decolonized curriculum (Sayed et al., 2017). Langa et al. (2017) argue for recentring African scholars' contributions to the curriculum, highlighting the inclusion of African languages, literature, customary law, and religion in select South African HEIs. However, financial dependency on Western donors often compels adherence to Western academic standards, hindering efforts to decolonize or Africanize curricula (Langa et al., 2017). This perpetuates a Eurocentric educational model, undermining Afrocentric principles aimed at instilling African consciousness and humanity (Mamdani, 2016). Thus, decolonising the HE curriculum in South Africa necessitates challenging the superiority of European thought over African perspectives and addressing the complexities of both.

### **The Legal Sciences Curriculum in South Africa**

The evaluation and assessment of legal sciences curricula in Higher Education Institutions (HEIs) in South Africa, including Universities of Technology (UoTs), predominantly hinge upon the rule of law, which upholds the supremacy of the Constitution (Adebisi, 2020). The Legal Sciences curriculum at these institutions primarily revolves around English law, common law, and Roman-Dutch law, with minimal inclusion of Indigenous laws or practices (Anwana, 2022). Indigenous legal systems are typically discussed only within contexts where they are perceived as inferior or harmful (Anwana, 2022). Students are reminded of the Constitution's pre-eminence in most first-year courses, emphasizing its status as the paramount source of law, with any conflicting laws deemed null and invalid (Mawere, 2020). The supremacy of the Constitution and the rule of law, foundational to South Africa's legal framework, originated from Eurocentric principles that prioritized European interests, marginalized indigenous legal systems, and perpetuated colonial power dynamics. Consequently, attempts to integrate alternative perspectives and Indigenous legal principles into the curriculum are hindered, excluding vital Indigenous legal traditions essential for community-based justice and healing.

The domination of English Law, Common Law, and Roman-Dutch Law in both legal systems and HEI curricula further marginalizes Indigenous legal systems. Efforts to preserve and defend Indigenous values embedded in South Africa's native community customs and traditions are stymied by the curriculum's inclination toward Western legal concepts (Nhlapo, 2017). Despite the relevance of Indigenous law, such as 'Ubuntu', to African communities, its absence from the legal sciences curriculum contradicts the lived experiences of many African students, alienating them from their cultural heritage (Anwana, 2022). UoTs, like traditional universities, prioritize Western legal systems in their curricula, overlooking Indigenous customary legal systems. These institutions predominantly offer business, corporate, and commercial law courses, aligning with an 'economic responsiveness' approach that prioritizes economic sectors over broader societal considerations (Fomunyam & Teferra, 2017). The omission of customary and Indigenous laws from UoT legal curricula underscores the urgency of decolonising the Legal Sciences curriculum to foster inclusivity and represent diverse legal traditions effectively.

### **Challenges of Decolonising the Legal Sciences Curriculum**

The decolonisation of the Legal Sciences curriculum in Higher Education Institutions (HEIs) poses numerous challenges, mirroring broader curriculum reform efforts. Specifically, decolonising the legal sciences curriculum in HEIs, particularly at Universities of Technology (UoTs), entails addressing the following obstacles:

#### **The Language Challenge**

Wa Thiong'o (1986) contends that the imposition of colonizers' languages as instruments of cultural dominance and control led to the demise of Indigenous languages and cultures. This assertion aligns with the perspective of Anwana (2022), supported by Mheta, Lungu, and Govender (2018), who identify the removal of Indigenous languages from the educational system as a significant barrier to decolonising Higher Education (HE) curricula in South Africa. Anwana (2022) further argues that the longstanding dominance of foreign languages such as Afrikaans, English, and Latin in the legal sciences has hindered the incorporation

of Indigenous laws into the curriculum. The prevalence of foreign language expressions, notably in Latin, English, and Afrikaans, within the legal sciences curriculum poses challenges to the integration of Indigenous languages. These languages have traditionally dominated the HE judicial system in South Africa (Phewa, 2015), thereby normalizing their usage and impeding efforts to include Indigenous languages. This phenomenon is rooted in the Eurocentric principles upon which the South African legal system was founded (Ngcobo, 2007). Ngcobo (2007) attributes the failure of Indigenous language development and integration into HE curricula to socioeconomic pressures, international communication norms, and geopolitical influences. To facilitate the decolonisation of the legal sciences curriculum, Phewa (2015) suggests substituting some Latin, English, and Afrikaans legal terms with African languages and concepts. This approach aims to reclaim Indigenous linguistic and cultural heritage within the educational framework.

### **Academics' Resistance to Decolonise the Curriculum**

Anwana (2022) observes that a sizeable portion of law instructors and lecturers resist curriculum changes due to their reluctance to adopt an African legal science curriculum that diverges from the Eurocentric legal system. Consequently, rather than pursuing curriculum transformation, these academics opt to develop alternative curricula free from the constraints of the current Eurocentric framework. Their apprehension stems from a lack of familiarity with African customs and laws that would be introduced into the legal science curriculum, leading to concerns that their existing legal knowledge would be disregarded during the curriculum revision process (Anwana, 2022). This resistance is labelled as 'disciplinary responsiveness' (Fomunyan & Teferra, 2017). Postma (2019) notes that new material and curriculum in legal science are predominantly generated by highly systematized researchers and academics within South African higher education. Consequently, these materials often perpetuate knowledge frameworks disconnected from the daily realities of African students, maintaining an international perspective.

The discourse surrounding the decolonisation of Higher Education (HE) often raises questions about which indigenous systems will be taught and who will teach these modules (Anwana, 2022). These inquiries reflect fundamental concerns and justifications presented by those opposed to curriculum changes (Faris, 2015). In response, Hewitt (2016) argues that developing an Indigenous legal curriculum requires academics to adopt Indigenous teaching strategies and establish personal relationships with Indigenous communities, particularly regarding the integration of Indigenous systems with legal science. Faris (2015) suggests that embracing the interpretive paradigm of African customary law within an African Renaissance model can facilitate educational reform and restorative justice initiatives.

### **Uncertainties on What Content Should be Decolonised**

While interpretations of 'decolonisation' may vary among individuals or scholars, there is a consensus within Higher Education (HE) in South Africa that decolonisation is imperative. However, uncertainties persist regarding which aspects of the curriculum require decolonisation (Musitha & Mafukata, 2018). Mackey (2014) suggests that significant uncertainty remains among most HEIs and academics regarding the specific content that necessitates decolonisation. Without explicit goals defining what should be decolonized, the decolonisation of a curriculum cannot be effectively achieved (Anthony-Stevens & Matsaw Jr, 2020). Musitha and Mafukata (2018) highlight that researchers and academics of African descent have often lost their identities due to colonial educational institutions, leading to the internalization of information and legal frameworks that primarily served colonists rather than the colonized. This ambiguity surrounding the content of decolonisation raises concerns about the lack of originality among legal academics and experts, resulting in uncertainty regarding which aspects require modification (Griffiths, 2019).

According to Griffiths (2019), while law instructors and HEIs should refrain from teaching Eurocentric legal systems, curriculum changes should be implemented cautiously to avoid a radical approach that could be perceived as cynical or disingenuous. Adopting a radical approach could potentially overlook the nuanced historical experiences of various ethnic groups within South Africa, implying that certain populations are foreign to the country (Griffiths, 2019). Instead, the inclusion of Indigenous laws and African legal systems is advocated as essential for decolonising education, particularly within the legal sciences. Anwana (2022) emphasizes that decolonisation aims to ensure that African narratives, experiences, knowledge, and perspectives are not marginalized, without erasing the historical experiences of other ethnic groups.

### **Achieving the Decolonisation of the Legal Sciences Curriculum in Higher Education**

The incorporation of Indigenous laws, customs, and traditions of the native people of South Africa and Africa into the curriculum of law faculties and departments in South African academic institutions is proposed as a strategy to decolonize the legal curricula (Himonga & Diallo, 2017). Nienaber (2018) argues that the Legal Sciences curriculum should acknowledge and teach traditional and customary law as valid



legal sources. This entails integrating African traditions and practices into the curriculum, as ancestral governance in South Africa was historically guided by customary legal structures (Griffiths, 2017). To initiate the decolonisation process, it is imperative to integrate traditional legal teachings and practices of South African Indigenous people, including instruction on traditional legal institutions such as the 'Lekgotla' and 'Imbizo' (Himonga & Diallo, 2017). Specifically addressing UoTs, Fomunyan and Teferra (2017) assert that the law curricula fail to adequately address societal needs, emphasizing employment preparation over holistic legal education. Accordingly, revising UoTs' curricula to include modules like 'African Customary Law, Advanced Indigenous Law, Historical Foundations of South African Law, and Introduction to African Philosophy' is advocated to ensure students learn about traditional African and South African laws alongside commercial and business law (Fomunyan & Teferra, 2017).

Furthermore, the structural organization of UoTs, with legal sciences departments overseen by faculties of humanities, presents challenges. Mawere (2020) notes that this arrangement results in the inclusion of corporate law, commercial law, and other business law courses while neglecting fundamental legal principles. Establishing law faculties within UoTs and restructuring curricula to encompass established laws and practices is proposed to address this deficiency (Mawere, 2020). Himonga and Diallo (2017) identify three crucial factors for decolonising the legal curriculum in South African higher education: the incorporation of contemporary customary law into legal education, interdisciplinary legal study, and a paradigm shift in legal philosophy. They assert that decolonising the legal curriculum and promoting the growth of live customary law are inherently intertwined processes (Himonga & Diallo, 2017).

### **Methodology**

The study's methodology discusses the research approach and research design employed in this study. It further outlines the target population, sampling techniques, sample size, research instruments, data collection, data analysis, and ethical considerations.

### **Research Approach**

The study employed a qualitative approach grounded in the interpretivist paradigm, focusing on the collection and analysis of textual material, both written and spoken (Senekal & Lenz, 2020). The qualitative approach was deemed to be the most appropriate for this study since it takes into consideration experience, perception, and meaning (Senekal & Lenz, 2020). The study required the experience and perception of the participants on the challenges of decolonising the legal sciences curriculum and the causes of these challenges thereto.

Furthermore, the study employed an inductive approach, which involves analysing qualitative data and assessing particular objectives (Azungah, 2018). An inductive approach was used in this study because it freed the research findings from the constraints imposed by structured approaches and allowed them to arise from the frequent, dominant, or significant themes that were present in the raw data. The inductive approach was chosen for this study because it allowed the researcher to derive interpretations from the information gathered, uncover patterns and links, and then develop a theory.

### **Research Design**

A research design "describes how the study was conducted to address the research problem" (Mandukwini, 2016). The study employed an explanatory case study as the best research design which study allows for an in-depth investigation of a phenomenon within a specific context utilising multiple data sources (Harrison, Birks, Franklin, & Mills, 2017). Explanatory case study was employed as the best research design because the study needed to obtain an in-depth understanding of the challenges of decolonising the Legal Sciences Curriculum in its natural, real-life context. Thus, a case study research design helped the researchers to obtain an in-depth understanding of the challenges of decolonisation in its natural, real-life context and to gather insights into the concept and understanding of decolonisation, which led to the discovery of recommendations and solutions to overcome the identified challenges.

### **Target Population**

A population in a study is defined by Michalos (2015) as "a subset of the target population from which the sample is selected". The target population comprised of all academics within the Department of Legal Sciences at the selected University of Technology (UoT) who possessed extensive knowledge of decolonisation.

### **Sampling Techniques and Sample Size**

Purposive sampling, a non-probability sampling technique, was utilised to select participants deemed suitable for providing insightful responses relevant to the research topic. Purposive sampling was employed as the best sampling technique in this study because the study required a selection of participants who were suitable to give reliable responses and were used for the in-depth understanding of the research problem. The researchers used their knowledge of where to find the different academics with the knowledge of the

concept of decolonisation. This was done by contacting the academics that were identified to be suitable to participate in the study. The participants were carefully selected based on whether they met the requirements of the study's objectives, i.e. the participant's knowledge of the chosen topic, their occupations in the HEI, and their experiences as academics.

A total of eight academics were sampled for the study based on their academic backgrounds, employment status, and familiarity with the specified topic. The participants were not required to adhere to any requirements or restrictions regarding their country of origin, socioeconomic standing, sexual orientation, ethnicity, religion, age, gender, or race. The only limitations were occupation, knowledge of the topic, and experiences of the participants as academics.

### **Research Instrument**

A research instrument can be defined as any tool you can use to gather or obtain data, measure data, or analyse data essential to the topic of your research (Taherdoost, 2016). The study employed a semi-structured interviews as the primary research instrument due to their flexibility in facilitating open-ended responses and allowing for follow-up questions to deepen understanding (Senekal & Lenz, 2020). The semi-structured interview enabled the researcher to collect data effectively and allowed the participants to provide in-depth responses that were crucial and relevant to the research problem. Participants were interviewed on a one-to-one basis, and no focus interviews were adopted to save time. An interview schedule was developed, and the demographics of the participants were created. The interview schedule consisted of two sections. Section A covered the demographics of the participants, and Section B covered the interview questions. The interview schedule contained open-ended interview questions that were carefully developed by the researchers by considering the research topic, the research aims and objectives, and the existing literature review. Since the study's interview schedule consisted of open-ended questions, sometimes the researchers would divert from the interview questions or add new questions which were not initially predetermined for the interviews. To enable the researchers to ask follow-up questions based on the responses of the participants, four main research questions were developed, with follow-up questions underneath the main questions. The research questions were designed to allow participants to elaborate on their experiences, perceptions, and observations regarding the subject. This is attributable to the flexible semi-structured interviews that were conducted. The researchers followed up with the participants to often get clarification and in-depth knowledge and data.

### **Data Collection**

The study was conducted in 2023 at Vanderbijlpark, Gauteng Province, South Africa, ensuring participant privacy and data integrity on the campus of the selected UoT. Data collection for this study was conducted through semi-structured interviews. Face-to-face interviews and virtual interviews were the preferred method of collecting data. Face-to-face interviews and virtual interviews were selected as the best method of collecting data because they gave the researcher the ability to control interactions, ensure that the participants were indeed the ones selected to participate in the study, ask complex questions, and use probe mechanisms (Maurer, 2021). Interviews were chosen to be the best research strategy for collecting data because interviews assist in the explanation, increase of understanding, and exploration of the perspectives, behaviours, experiences, and phenomena of the study population (DeJonckheere & Vaughn, 2019). The study called for a comprehensive justification and comprehension of the participants' responses. This was accomplished by conducting separate, in-person interviews with each participant and asking a series of open-ended questions to each participant.

Secondly, interviews were chosen as the best research strategy for this study because they frequently include open-ended questions that allow for the collection of comprehensive data without restricting the participants' responses. Four open-ended questions with three follow-up questions were asked of the selected participants. No restrictions were made on the participants' responses. Responses from consenting participants were recorded and stored in a voice recording device, and notes of their responses were taken. Responses from participants who did not consent to recorded interviews were noted, documented, and later transcribed into Microsoft Word.

### **Data Analysis**

Content analysis, specifically conceptual analysis, was employed as the method of data analysis. A deductive approach was utilised to categorise and maintain data consistency with the study topic, focusing on keywords or themes frequently highlighted by participants. Open coding was applied to identify valuable topics, with themes and descriptive coding subsequently added to enhance data interpretation. Findings were supported by relevant quotes and case studies drawn from the interviews and presented coherently to provide insight into the research objectives.

## **Ethical Considerations**

The study adhered to rigorous ethical standards, including obtaining ethics clearance, securing informed consent from participants, ensuring voluntary participation, and guaranteeing anonymity and confidentiality. Permission to conduct the study was obtained from the relevant authority at the participating HEI, with researchers ensuring all participants completed consent forms and addressing any queries or concerns before commencing interviews.

## **Findings and Discussions**

The study's findings reveal a prevalent reformist stance among the majority of participating academics regarding the decolonisation of the curriculum to better cater to the needs of higher education (HE) students. Each participant recognized the necessity of implementing an Afrocentric curriculum that is notably more progressive and contemporary to promote social cohesion, cultural representation, and equitable access to information within the South African educational system. The primary objective of the study was to identify the challenges hindering the decolonisation of the legal sciences program at the University of Technology (UoT). Eight key themes emerged as the framework for organizing the discussions of the findings. The ensuing discourse provides a concise summary of these critical issues, incorporating participant perspectives and firsthand accounts.

### **Management System and Reluctance to Change**

The response of one academic (12.5%) aligns with Harvey and Russell-Mundine (2018), highlighting that the administrative structure of Higher Education Institutions (HEIs) poses a notable barrier to curriculum decolonisation, particularly regarding student involvement in decision-making processes. The participant raised concerns regarding the entrenched systemic exclusion of youth from decision-making arenas, driven by both practical and political factors. Additionally, two academics (25%) echo Le Grange's (2019) findings, asserting that while HEIs possess the necessary knowledge, expertise, and data for curriculum decolonisation, they lack the political resolve to enact such changes. They agree with Anwana (2022), suggesting that many law school instructors are hesitant to adopt an African legal science curriculum excluding the Eurocentric legal system, contributing to their reluctance to pursue decolonisation. The apprehension of potential consequences associated with curriculum alteration underpins resistance to change. This indicates instructors' concerns at HEIs about the potential obsolescence of their current knowledge and skills, potentially impacting employability. The existing power dynamics within the institution, where authoritative figures resist change to maintain the status quo, exacerbate this apprehension.

### **Bridging the Theory-Practice Gap**

Based on the study's findings, the response of one academic (12.5%) aligns with Kankindi and Chimbwanda (2021), who assert that the legal education system and law schools face increasing criticism for inadequately preparing students for societal and workforce needs. The academics highlight the fundamental barrier to curriculum decolonisation: the discrepancy between theoretical knowledge and practical application. This disparity perpetuates an outdated educational model where students passively absorb knowledge and defer to the wisdom of previous generations of lecturers. As noted by Kankindi and Chimbwanda (2021), this imbalance prioritizes theoretical learning over practical skills and fails to adapt to contemporary demands. The professor's perspective, supported by Kankindi and Chimbwanda (2021), underscores a broader issue within educational institutions: the failure to bridge the gap between theory and practice. Consequently, decolonising the curriculum necessitates a reassessment of educational methodologies to equip students with the skills and knowledge required for meaningful engagement with contemporary issues. Moreover, achieving a comprehensive understanding of both traditional and modern cultures requires a shift towards a balanced educational framework that integrates academic theories with real-world experiences and embraces diverse perspectives, including African jurisprudence.

### **Lack of Information, Guidance, and Resources**

Mamdani (2011) identifies a deficiency in theory, data, direction, and knowledge, which has fostered a culture of consultation in South Africa that prioritizes espionage over knowledge production. Le Grange (2019) extends this argument by suggesting that the lack of information on decolonising the curriculum is due to institutions predominantly adhering to Westernized structures. One of the participants (12.5%) concurs with these findings, highlighting a fundamental obstacle to decolonising the legal science curriculum. A significant challenge in integrating decolonial concepts into legal education is the absence of supportive frameworks. The lack of guidelines and documentation for implementing decolonisation initiatives indicates a dearth of institutional structures or regulations to facilitate such efforts. Without clear guidance, educators may struggle to navigate the complexities of decolonising the curriculum, including selecting relevant materials, adapting instructional methods, and assessing student learning objectives (Le Grange, 2019).

The participant expresses doubt regarding the institution's ability to generate the necessary knowledge for successful decolonisation projects. This suggests a deficiency in opportunities for professional development and training in decolonial pedagogy and content among academics. The challenges associated with implementing decolonisation initiatives are further compounded by limited resources and tools. Educators may lack access to relevant resources, case studies, or instructional materials that prioritize Indigenous perspectives and decolonial frameworks. This limitation hinders their ability to create inclusive, culturally sensitive learning environments that challenge dominant narratives and amplify marginalized voices. In summary, the participant's response underscores the critical importance of institutional support and capacity-building initiatives for decolonising the legal science curriculum.

### **Lack of Literature and Goals**

In alignment with Du Plessis (2021), one of the participants (12.5%) underscored the impediment to curriculum decolonisation posed by a scarcity of literature. Du Plessis (2021) supports this stance by asserting that despite years of democracy, Higher Education Institutions (HEIs) still lack a clear strategy for achieving decolonisation. The participant's response highlights two primary challenges: the difficulty of presenting African knowledge in a manner relevant to South African communities and the absence of academic resources for integrating African knowledge into formal education. The participant suggests that within academic discourse dominated by Western paradigms, these challenges marginalize African epistemologies, potentially disengaging and disadvantaging South African students. Analysis of these responses indicates that the dearth of literature and information on incorporating African knowledge, especially from Indigenous communities in South Africa, poses a significant obstacle to curriculum decolonisation.

Additionally, akin to the observations of Musitha and Mafukata (2018), another 12.5% of participants highlighted the lack of defined objectives as a major hindrance to decolonising the legal sciences curriculum. While decolonising the curriculum is widely acknowledged, Musitha and Mafukata (2018) argue that ambiguity persists regarding which courses should undergo this process. The participant echoes concerns about the critical issue of ambiguity surrounding curriculum decolonisation. In line with the findings of Musitha and Mafukata (2018), the participant suggests that the lack of clear objectives and a roadmap outlining areas for decolonisation leads to directionless and disjointed efforts. Consequently, the absence of defined objectives impedes the development of effective strategies and measurable outcomes, resulting in superficial improvements rather than comprehensive transformation. Such attempts fail to address the fundamental structural and epistemological changes necessary for genuine integration of Indigenous and local knowledge systems into the educational framework, rendering them ineffective in achieving meaningful decolonisation.

### **Monochronic Conception of Time**

Lindauer, Pritchett, Rodrik, and Eckaus (2002) identify the 'monochronic conception of time' as a significant factor impacting the decolonisation of curricula in Higher Education Institutions (HEIs) in South Africa. Anwana (2022) reinforces this assertion, highlighting concerns about the temporal aspects involved in transitioning from a Eurocentric to an African Indigenous Knowledge-centered educational system. A participant (12.5%) concurs with Lindauer et al. (2002), emphasizing the administrative and bureaucratic hurdles associated with curriculum reform. The participant suggests that meticulous planning and alignment with established educational standards and frameworks are imperative when incorporating new subjects, such as Indigenous knowledge. Moreover, echoing Anwana's (2022) perspective, the participant underscores the time-consuming nature of the decolonisation process, requiring clearance at various academic levels, including departmental faculties and the university senate. This implies that immediate changes are unfeasible due to potential delays at each approval stage, necessitating thorough justification and analysis. Consequently, while the objective of decolonising and restructuring the curriculum is crucial, the participant suggests that actual implementation will be gradual and require sustained effort to ensure comprehensive, well-considered changes aligning with institutional academic standards.

### **Unpacking Decolonisation Discourse**

The study findings reveal that 25% of participants advocate for reformist approaches to decolonising the curriculum, highlighting a spectrum of challenges encompassing theoretical, historical, and practical dimensions in addressing and eradicating colonial legacies within South African education. Additionally, 12.5% of participants align with Ndamane's (2018) assertion that despite escalating calls for decolonisation and ongoing debates regarding its definition and optimal implementation in Higher Education Institutions (HEIs), there is a lack of initiative driving comprehensive discussions and strategies for decolonisation. These participants echo Du Plessis's (2021) observation that despite over two decades of democratic governance in South Africa, there remains a notable absence of clear guidelines or definitive knowledge on



decolonising the HE curriculum, a sentiment corroborated by Le Grange's (2019) contention that HEIs predominantly uphold Westernized paradigms, hindering the availability of decolonisation information. Firstly, participants emphasize the scarcity of genuine dialogue and proactive engagement with decolonisation processes within the legal sciences curriculum, attributing this to institutional adherence to colonial ideologies and a lack of concerted efforts to challenge the status quo. This aligns with Ndamane's (2018) assertion that the absence of substantive discourse and proactive involvement underscores stakeholders' reluctance to interrogate prevailing norms and actively pursue decolonisation. Such cultural complacency or resistance, as depicted in the study, impedes robust conversations on decolonisation and its implementation.

Secondly, participants underscore the absence of clear guidance, particularly at grassroots levels, for decolonising the curriculum, suggesting ambiguity and confusion regarding the optimal strategies for achieving this goal. This parallels Le Grange's (2019) findings, which underscore a disconnect between executive involvement and community engagement, potentially obstructing effective decolonial efforts. The study emphasizes the necessity of coordinated planning and inclusive engagement at all levels to advance genuine decolonisation initiatives. Moreover, participants highlight the disparity between the curriculum's representation of African knowledge and the exigencies of contemporary communities, advocating for modifications to include courses that encompass African knowledge systems. This echoes Fomunyan and Teferra's (2017) call for augmenting the legal science curriculum at UoTs with courses such as 'African Customary Law' and 'Introduction to African Philosophy' to ensure comprehensive coverage of African knowledge. This underscores the prevalent deficiency of African knowledge representation within the existing curriculum, as underscored by the majority of participants.

### **The Integration of the Curriculum**

An additional 12.5% of participants raised concerns regarding the positioning and function of the legal sciences department within the institution, questioning whether it is perceived as an auxiliary rather than a core academic discipline. This sentiment aligns with Fomunyan and Teferra's (2017) findings, indicating that, unlike traditional institutions, South African UoTs do not offer courses such as African Customary Laws, thereby neglecting African legal systems. The participant's observation underscores a fundamental flaw in the university's approach to legal education, portraying the legal science department as serving other disciplines rather than being central to the university's mission. Despite offering specialized fields like Labour Law and Legal Assistance, the department is still regarded as subordinate to other disciplines, indicating a lack of autonomy and recognition. Consequently, this undermines the department's autonomy and impact. Therefore, the participant's remarks underscore the necessity for the institution to reassess its approach to legal education, advocating for greater autonomy and recognition to better serve the needs of the legal sciences community within the organization.

### **The Supreme Constitution of the Republic**

Finally, 12.5% of participants identified "the Supremacy of the Constitution and the rule of law" as a significant barrier to decolonising the legal sciences curriculum to integrate African Indigenous Law. The participant highlighted that the Legal Science curriculum is inherently influenced by laws derived from the Constitution, making it challenging to incorporate laws and practices deemed contrary to it without nullifying the curriculum. This aligns with Adebisi's (2020) contention that the Legal Sciences curriculum in South African HEIs predominantly stems from the Constitution, which is rooted in English law, common law, and Roman-Dutch law, often sidelining Indigenous laws, customs, and practices as inferior. The notion of Eurocentric principles inherent in the Constitution and the rule of law is supported by the participant's analysis, suggesting that these principles, including law supremacy and Europe's historical dominance, perpetuate a model of progress and universal values. Therefore, decolonising the curriculum would require amending the Constitution to accommodate Indigenous and customary laws, which are currently considered inferior and incompatible.

### **Conclusion and Recommendations**

#### **Overall Study's Conclusion**

The study aimed to explore the challenges of decolonising the Legal Sciences curriculum and provide strategic solutions for its successful implementation. It sought participants' views on the obstacles hindering decolonisation, along with recommendations for restructuring the curriculum. The research examined the key barriers to transformation, how the institution could facilitate the process, and actionable steps for achieving a decolonised curriculum. By synthesising the insights and proposed solutions, the study offers a clear roadmap for overcoming these challenges and advancing decolonisation within higher education.

The analysis of the participants' responses identified eight (8) key challenges to decolonisation,

including management issues, resistance to change, the gap between theory and practice, and the complexities of defining what aspects of the curriculum need to be decolonised. Other challenges included insufficient research, a lack of clear guidance, and cultural resistance to adopting African-centred models. External factors such as the absence of dedicated law programs and societal disinterest in scientific inquiry further complicate the situation. These interconnected factors, including ageism, racism, and inadequate professional development, form significant barriers to decolonisation, highlighting the need for a comprehensive, collaborative approach to overcome these challenges.

The study also outlined strategies for reconstructing the Legal Sciences curriculum, including content analysis to remove colonial influences, addressing imbalances, and aligning the curriculum with national and international standards. Immediate curriculum revisions, along with the integration of decolonised perspectives, were deemed essential. The recommendations emphasized the importance of governance, research, and community engagement in institutionalising decolonisation. Additionally, the study highlighted the need for a culturally inclusive approach, proposing the incorporation of indigenous knowledge and local languages into the curriculum, and advocating for a long-term, collaborative effort involving multiple stakeholders to achieve meaningful change. The findings show that, with commitment and collaboration, the decolonisation of the curriculum is feasible, particularly when informed by African ways of knowing and a participatory process.

### **Overall Study's Recommendations**

The researchers recommend several strategies to address the identified challenges. These include establishing a YAB to enhance youth representation in decision-making, promoting flexible engagement channels and youth leadership development. They advocate for experiential and interactive learning, critical thinking, and diverse perspectives to bridge the theory-practice divide. Furthermore, they propose comprehensive academic training plans and specialized research projects to address the lack of literature on African knowledge integration. Stakeholder participation, streamlined approval processes, clear objectives, and awareness campaigns are deemed essential for successful decolonisation initiatives. Moreover, fostering an engaged culture through forums and community interaction is advised, alongside advancing the legal sciences department's position within the organizational structure. Overcoming constitutional obstacles is highlighted as a crucial endeavour, requiring policy analysis, collaboration with legal experts, and advocacy for flexible changes that align with constitutional objectives. The researchers propose that by combining these strategies, a comprehensive framework can be established to navigate and surmount challenges related to decolonisation. Lastly, the study recommends future research to expand its scope to include other South African universities. It suggests conducting quantitative studies with larger sample sizes and broader emphases, encompassing the entire context of public higher education. This broader investigation aims to thoroughly examine the challenges faced by comprehensive, traditional, and UoT universities to determine potential overlaps in challenges related to decolonising the curriculum.

### **References**

- Adebisi, F. (2020). Decolonising the law school: Presences, absences, silences, and hope. *The Law Teacher*, 54(4), 471-474.
- Adebisi, F. I. (2016). Decolonising education in Africa: Implementing the right to education by re-appropriating culture and indigeneity. *N. Ir. Legal Q.*, 67, 433.
- Albertus, R. W., & Tong, K. W. (2019). Decolonisation of institutional structures in South African universities: A critical perspective. *Cogent Social Sciences*, 5(1). <https://doi.org/10.1080/23311886.2019.1620403>
- Anthony-Stevens, V., & Matsaw Jr, S. L. (2020). The productive uncertainty of Indigenous and decolonising methodologies in the preparation of interdisciplinary STEM researchers. *Cultural Studies of Science Education*, 15, 595-613.
- Anwana, E. O. (2022). Decolonising the law curricula at universities of technology: Students' perspective on content. *South African Journal of Higher Education*, 36(1), 59-75.
- Azungah, T. (2018). Qualitative research: deductive and inductive approaches to data analysis. *Qualitative research journal*, 18(4), 383-400.
- Becker, H. (2016). South Africa's May 1968: Decolonising institutions and minds. *ROAPE*. <https://roape.net/2016/02/17/south-africas-may-1968-decolonising-institutions-and-minds/>
- Chikane, R. (2018). *Breaking a rainbow, building a nation: The politics behind #MustFall movements*. Pan Macmillan South Africa.
- De Beer, J. (Ed.). (2019). *The decolonisation of the curriculum project: The affordances of Indigenous knowledge for self-directed learning* (Vol. 2). NWU Self-directed Learning Series. AOSIS.
- DeJonckheere, M., & Vaughn, L. M. (2019). Semistructured interviewing in primary care research: a balance

- of relationship and rigour. *Family medicine and community health*, 7(2).
- Du Plessis, P. (2021). Decolonisation of education in South Africa: Challenges to decolonise the university curriculum. *South African Journal of Higher Education*, 35(1), 54-69.
- Faris, J. A. (2015). African customary law and common law in South Africa: Reconciling contending legal systems. *International Journal of African Renaissance Studies: Multi-, Inter-, and Transdisciplinarity*, 10(2), 171-189.
- Fomunyan, K. G. (2017). Student protest and the culture of violence at African universities: An inherited ideological trait. *Yesterday and Today*, 17, 38-63.
- Fomunyan, K. G., & Teferra, D. (2017). Curriculum responsiveness within the context of decolonisation in South African higher education. *Perspectives in Education*, 35(2), 196-207.
- Godsell, G., Chikane, R., & Mpofu-Walsh, S. (2016). *Fees must fall: Student revolt, decolonisation and governance in South Africa*. NYU Press.
- Griffiths, A. (2017). Broadening the legal academy, the study of customary law: The case for social-scientific and anthropological perspectives. *Potchefstroom Electronic Law Journal/Potchefstroomse Elektroniese Regsblad*, 20(1), 1-24. <https://doi.org/10.17159/1727-3781/2017/v20i0a3263>
- Grosfoguel, R. (2007). The epistemic decolonial turn: Beyond political-economy paradigms. *Cultural Studies*, 21(2-3), 211-223.
- Harrison, H., Birks, M., Franklin, R., & Mills, J. (2017, January). Case study research: Foundations and methodological orientations. *Forum qualitative Sozialforschung/Forum: qualitative social research*, 18(1).
- Harvey, A., & Russell-Mundine, G. (2019). Decolonising the curriculum: Using graduate qualities to embed Indigenous knowledge at the academic cultural interface. *Teaching in Higher Education*, 24(6), 789-808. <https://doi.org/10.1080/13562517.2018.1508131>
- Heleta, S. (2016). Decolonisation of higher education: Dismantling epistemic violence and Eurocentrism in South Africa. *Transformation in Higher Education*, 1(1), 1-8.
- Hewitt, J. G. (2016). Decolonising and Indigenizing: Some considerations for law schools. *Windsor YB Access Just.*, 33, 65.
- Himonga, C., & Diallo, F. (2017). Decolonisation and teaching law in Africa with special reference to living customary law. *Potchefstroom Electronic Law Journal/Potchefstroomse Elektroniese Regsblad*, 20(1).
- Kankindi, A., & Chimbwanda, V. (2021). Legal education and its contemporary challenges in Sub-Saharan Africa. *Strathmore LJ*, 5, 145.
- Langa, M., Ndelu, S., Edwin, Y., & Vilakazi, M. (2017). #Hashtag: An analysis of the #FeesMustFall movement at South African universities. *Centre for the Study of Violence and Reconciliation, Johannesburg*, 3(7), 217-243.
- Le Grange, L. (2018). Decolonising, Africanising, indigenising, and internationalising curriculum studies: Opportunities to (re)imagine the field. *Journal of Education (University of KwaZulu-Natal)*, (74), 4-18.
- Le Grange, L. (2019). The curriculum case for decolonisation. In *Decolonisation in universities: The politics of knowledge* (pp. 29-48). Wits University Press.
- Lindauer, D. L., Pritchett, L., Rodrik, D., & Eckaus, R. S. (2002). What's the big idea? The third generation of policies for economic growth. *Economia*, 3(1), 1-39.
- Mackey, E. (2014). Unsettling expectations: (Un)certainly, settler states of feeling, law, and decolonisation. *Canadian Journal of Law and Society/La Revue Canadienne Droit et Société*, 29(2), 235-252.
- Mamdani, M. (2011). The importance of research in a university. *Pambazuka News*, 526. <https://www.pambazuka.org/search/google/The%20importance%20of%20research%20in%20a%20university>
- Mamdani, M. (2016). Between the public intellectual and the scholar: Decolonisation and some post-independence initiatives in African higher education. *Inter-Asia Cultural Studies*, 17(1), 68-83.
- Mandukwini, N. (2016). *Challenges towards curriculum implementation in high schools in Mount Fletcher District, Eastern Cape* (Doctoral dissertation).
- Maurer, R. (2021). *The Pros and Cons of Virtual and In-Person Interviews*. <https://www.shrm.org/resourcesandtools/hr-topics/talent-acquisition/pages/pros-and-cons-virtual-in-person-interviews.aspx>.
- Mawere, J. (2020). Decolonising legal education in South Africa: A review of African Indigenous law in the curriculum. *Pretoria Student L. Rev.*, 14, 31.
- Mbembe, A. (2015). Decolonising knowledge and the question of the archive.

<https://wiser.wits.ac.za/system/files/Achille%20Mbembe%20%20Decolonising%20Knowledge%20and%20the%20Question%20of%20the%20Archive.pdf>

- Mbembe, A. (2016). Decolonising the university: New directions. *Arts and Humanities in Higher Education*, 15(1), 29-45.
- Mheta, G., Lungu, B. N., & Govender, T. (2018). Decolonisation of the curriculum: A case study of the Durban University of Technology in South Africa. *South African Journal of Education*, 38(4).
- Michalos, E.A.C. (2015). *Encyclopedia of Quality of Life and Well-being Research*. 28-46. AOSIS.
- Musitha, M. E., & Mafukata, M. A. (2018). Crisis of decolonising education: Curriculum implementation in Limpopo Province of South Africa. *Africa's Public Service Delivery and Performance Review*, 6(1), 1-8.
- Ndamane, S. N. P. (2018). Students' insight and understanding of the notion of 'decolonisation of the curriculum in higher education' at the University of Kwazulu-Natal, Pietermaritzburg (Doctoral dissertation).
- Nhlapo, T. (2017). Customary law in post-apartheid South Africa: Constitutional confrontations in culture, gender and 'living law.' *South African Journal on Human Rights*, 33(1), 1-24.
- Nienaber, A. (2018). Boundaries of the episteme: Decolonising the international law curriculum. *Scrutiny*2, 23(2-3), 20-27.
- Postma, D. (2019). Decolonial pedagogical practices: Engaging with Ranciere. *South African Journal of Higher Education*, 33(5), 7-24.
- Sayed, Y., Motala, S., & Hoffman, N. (2017). Decolonising initial teacher education in South African universities: More than an event. *Journal of Education (University of KwaZulu-Natal)*, (68), 59-91.
- Senekal, Q., & Lenz, R. (2020). Decolonising the South African higher education curriculum: An investigation into the challenges. *International Journal of Social Sciences and Humanity Studies*, 12(1),
- Taherdoost, H. (2016). Validity and reliability of the research instrument; how to test the validation of a questionnaire/survey in a research. *International Journal of Academic Research in Management (IJARM)*, 5.