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Towards an Anti-racist Pedagogy: Contextual Practice on Race in Public Law¹

Movements to “decolonise the academy”² have gained much attention since the Rhodes Must Fall protests in 2020, where Oxford University students called for the removal of the Cecil Rhodes statue from Oriel College, viewed as a symbol and glorification of British imperialism.³ Students in other universities also gathered under the “decolonising” banner to raise consciousness of how colonialism has shaped knowledge production in academia and remained embedded through a Eurocentric curriculum and the so-called canon.⁴ Students at my own university (Kent), also formed a decolonising collective (Decolonise UoK) in 2018, producing a manifesto of action points for senior leadership, resources for staff and support including events for students.⁵ The work was featured as a sector leading case study in the Universities UK and National Union of Students (NUS) joint *Closing the Gap* report.⁶ Along with the students involved, I (as academic lead) delivered talks and trainings around the country and we co-authored a book on antiracist and decolonial praxis within higher education (HE).⁷ The book includes the research undertaken by the students with contributions from (academic) colleagues across the sector who supported them and the wider movement. Further requests from teachers for support and guidance flooded in and were varied in their reasons for engaging us, whether

¹ Thanks to the reviewer for their helpful comments and Vidya Kumar for feedback and putting together the Race in UK Public Law special issue. This reflective piece would not be possible without the students who have developed and been crucial to embedding antiracist pedagogy in our law schools. A special debt of gratitude and acknowledgment goes to Anamika Misra, author of the Decolonising Locke audio walk, and who continues to produce groundbreaking work in this area. All errors are my own.

² As I have explored elsewhere, decolonising – as an ongoing process of conceptual thinking and consequent material actions – will mean different things in different contexts, although should not be abstracted from the indigenous and other communities from which they have arisen (S. Jivraj, *Towards Anti-Racist Legal Pedagogy: A Resource* (Socio Legal Studies Association/University of Kent, 2020), p.15, available at: <https://research.kent.ac.uk/decolonising-law-schools/>). “Decolonising” as a term can be fraught with difficulties in the current neo-liberal university context including within British universities where “decolonising” movements have been student led and therefore come from a very particular political trajectory with very few developing into staff-student collaborations and policy rather than institutional co-optation which often undoes the very work itself. For a detailed discussion of the differences and connections between decolonising and antiracist approaches to pedagogy see the Introduction by the co-editors in F.I Adebisi, S. Jivraj & N. Tzouvala (eds.), *Decolonisation, Anti-Racism and Legal Pedagogy: Strategies, Successes and Challenges* (Oxford: Routledge Legal Pedagogy Series, 2023).

³ Rhodes Must Fall Oxford, *Rhodes Must Fall: The Struggle to Decolonise the Racist Heart of Empire* (London: Zed Books, 2018). See also Oxford Centre for Global History, *Rhodes Must Fall: The Legacy of Cecil Rhodes in the University of Oxford* (2023), available at: <https://globalcapitalism.history.ox.ac.uk/files/case31-rhodesmustfallpdf>.

⁴ Why is My Curriculum White? <http://www.nus.org.uk/en/news/why-is-my-curriculum-white/>. See also “Why isn’t My Professor Black?” <http://www.dtmh.ucl.ac.uk/isnt-professor-black-reflection/>. For a detailed analysis of the literature in this area and institutional responses see S. Jivraj, ‘Decolonizing the Academy - Between a Rock and a Hard Place’ (2020) 22 *Interventions* 552-573 and G. Bhambra, D. Gebrial, & K. Nişancıoğlu (eds.), *Decolonising the University: Understanding and Transforming the Universities’ Colonial Foundations* (London: Pluto Press, 2018). For a more detailed exploration of the concepts of race and racialisation see T. Frost, ‘Citizenship and Race’, in this volume.

⁵ <https://research.kent.ac.uk/sergj/kaleidoscope-network-decolonising-the-university/>.

⁶ UUK & NUS, *Black, Asian And Minority Ethnic Student Attainment At UK Universities: #CLOSINGTHEGAP* (2019), available at: <https://www.universitiesuk.ac.uk/sites/default/files/field/downloads/2021-07/bame-student-attainment.pdf>.

⁷ D. Thomas and S. Jivraj (eds.), *Towards Decolonising the University: A Kaleidoscope for Empowered Action* (Oxford: Counterpress, 2020), available at: <https://counterpress.org.uk/publications/towards-decolonising-the-university/>.

as part of doing antiracist work within their individual law schools and/or triggered by an interest in the buzz of the wider decolonising the curriculum movement within HE. This need led me to write up an accessible resource entitled *Towards Anti-Racist Legal Pedagogy*, funded by the Socio-Legal Studies Association.⁸

In the resource, I draw on my empirical work and experience of being the academic lead and mentor for this student initiative that became a student-staff collaborative project.⁹ In it, I outline and contextualise the legal requirements and materiality of why we as (public) lawyers need to address pedagogical inequalities in general, as well as more specifically within law. I then map some key starting points where law-school teachers might begin - what is often reported to me as a daunting process of - doing the work of antiracist legal pedagogy. Some of the topics I highlight are discussed in more detail by my fellow contributors in this special issue, as well as the resource itself. Here, I discuss a few examples from the resource and a context specific artefact of a guided audio walk put together by a former student on the subject of “Decolonising Locke” revolving around the physical Locke building on campus.¹⁰ Given Locke’s significance to public law scholarship,¹¹ I reflect on this artefact as an example of how aspects of public law can be brought to life in the locality in which students study and live. I conclude with some final remarks on our pedagogical duty to play our part in addressing the ways in which racialisation, colonialism and its legacies remains largely invisibilised within the curriculum.¹²

Why address (racial) Inequalities in (Public) Law Pedagogy? Legal Requirements and Material Consequences

Universities in England are required by the Higher Education and Research Act 2017 (HERA) to address awarding disparities, more commonly known as attainment gaps. The Advance HE Report 2019, analyses data from 2017-2018 and shows that overall, 80.9% of white students received a first/2:1 compared with 67.7% of BME students, representing a BME degree attainment gap of 13.2%.¹³ The Office for Students (OFS) also established by HERA (s.1) is tasked with several functions including registering universities (s.3) based on meeting conditions relating to promoting “equality of opportunity” (s.2(e)).¹⁴ As part of this process, it has published targets to eliminate inequalities and guidance for universities to produce Access and Participation Plans (APP) in which they are required to state how they will work to improve equality of opportunity for underrepresented groups and achieve OFS outlined targets.¹⁵

⁸ Jivraj, *Towards Anti-Racist Legal Pedagogy* (2020).

⁹ For a more detailed account of the project see: S. Jivraj, ‘Decolonising the University: Success, Pitfalls and Next Steps’, in Thomas and Jivraj (eds.), *Towards Decolonising the University* (2020), pp.165-180.

¹⁰ A. Misra, *Decolonising John Locke: A Guided Audio Walk* (2020), available at: <https://research.kent.ac.uk/sergj/decolonising-john-locke/>

¹¹ See for example, M. Loughlin, *Foundations of Public Law* (Oxford: Oxford University Press, 2010).

¹² B. de Sousa Santos, *Decolonising the University: The Challenge of Deep Cognitive Justice* (Cambridge: Cambridge Scholars Publishing, 2020).

¹³ <https://www.advance-he.ac.uk/knowledge-hub/equality-higher-education-statistical-report-2019>.

¹⁴ <https://www.officeforstudents.org.uk/for-providers/equality-of-opportunity/our-approach-to-equality-of-opportunity/>.

¹⁵ See OFS (2023). *Regulatory Notice 1: Access and Participation Plan Guidance* which supports HE providers in producing an approvable plan, in accordance with the following HERA 2017 provisions: Section 29(4): “The

There is a lack of national data on attainment gaps across the awarding of *law degrees* specifically. However, as at least one in three law students is from a Black and Minority Ethnic (BAME)¹⁶ background, it is highly likely that the overall attainment gap figures are reflected in many, if not most law schools.¹⁷ We already know this is the case in relation to pre Solicitors Qualifying Exams (SQE) teaching of the Graduate Diploma in Law (GDL) and Legal Practice Course (LPC), as the Solicitors Regulation Authority (SRA) stated in its 2015 annual report (updated 2019) including baseline attainment data on “legal education, training and post-qualification”.¹⁸

“There is an attainment gap between white and Black, Asian and minority ethnic (BAME) students at all levels of legal education – white students have a higher pass rate and higher scores and on average are paid more during their training contract. Once qualified, BAME solicitors are less likely to work in higher paid roles in larger firms, and are less likely to be partners. The attainment gap is particularly pronounced for Black students, who as a group have lower scores and lower pass rates than white, Asian and mixed ethnicity students.”¹⁹

The “troubling data” from the annual monitoring reports led the SRA to commission initial research (2023) on ethnicity attainment gaps, the reasons and its consequences in the legal profession including barristers and judicial appointments.²⁰ Such data, however, is often dismissed within law schools, sometimes on the false assumption that we are “inheriting” the problem because inequalities in the education system already exist before students arrive at

OfS may issue guidance as to the matters to which the OfS will have regard in deciding whether to approve plans.”; Section 35(1) “The OfS may (a) identify good practice relating to the promotion of equality of opportunity, and (b) give advice about such practice to registered higher education providers.” <https://www.officeforstudents.org.uk/media/8921/regulatory-notice-1-access-and-participation-plan-guidance-dec-2023.pdf>.

¹⁶ I use the terms BAME or when drawing from policy or other Equality, Diversity and Inclusion (EDI) documentation which use these terms. My own preferred term is “people of colour” – it avoids the language of “minoritising” which can contribute to racialised thinking and discourse. It is a term that emanates from women of colour activism and solidarity politics rather than arising from policy discourse. However, no term can be representative of all and comes from its own genealogy and historical and socio-political context. See further here: <https://folukeafrica.com/the-only-acceptable-part-of-bame-is-the-and/>; <https://gal-dem.com/bookmark-this-are-acronyms-like-bame-a-nonsense/>; <https://shadesofnoir.org.uk/b-a-m-e-is-l-a-m-e/>.

¹⁷ L. Ellison and D. Jones, ‘First Year Law Students: The Impact of Assessment Type on Attainment’ (2019) 44(2) *Assessment & Evaluation in Higher Education* 283–293.

¹⁸ <https://www.sra.org.uk/globalassets/documents/sra/research/authorisation-and-monitoring-report-2019-20.pdf?version=48df3d>.

¹⁹ See also; H. Sommerlad et al. (2013). *Diversity in the Legal Profession in England and Wales: A Qualitative Study of Barriers and Individual Choices and Diversity at the Bar*. https://legalservicesboard.org.uk/what-we-do/Research/publications/pdf/lgb_diversity_in_the_legal_profession_final.pdf.

²⁰ <https://www.sra.org.uk/sra/research-publications/ethnicity-attainment-gap-legal-professional-assessments/>; In relation to the barrister’s profession see the Bar Standards Board Report, *Diversity at the Bar 2023* (2024), available at: <https://www.barstandardsboard.org.uk/resources/bsb-publishes-its-annual-report-on-diversity-at-the-bar.html>. See also: Ministry of Justice. *Diversity of The Judiciary: Legal Professions, New Appointments and Current Post-Holders - 2024 Statistics*, available at: <https://www.gov.uk/government/statistics/diversity-of-the-judiciary-2024-statistics/diversity-of-the-judiciary-legal-professions-new-appointments-and-current-post-holders-2024-statistics>.

university.²¹ However, OFS figures show that BAME students who enter with similar or even better A-Level results than their white peers still graduate with lower degree marks.²² We therefore know that these students are experiencing barriers to achievement within the university setting which may be attributable to awarding disparities occurring within our law schools resulting from what we teach or preclude from our teaching and (inaccessible) assessment methods.²³ We also know from students themselves, through the National Union of Students (NUS) and the various decolonising student movements, that subtle as well as explicit forms of racism within their curricula have a significant impact on their experience, mental and physical wellbeing whilst at university and therefore, highly likely, on their eventual degree outcome.²⁴ This has a continuing impact on future employability, which even from a purely instrumental market approach, as the SRA states, does not make good “business” sense.²⁵

Surfacing Imperialism in Public Law

“Students know that the world is a different context to the one they are taught about but they don’t speak about it or it’s knocked out of them, including what they are interested in.”²⁶

What then can we, as public law teachers do to ensure we play our part in bridging the gaps through our teaching, especially for underrepresented groups, as mandated by HERA 2017? As Kumar’s piece in this volume highlights, discussions of race, Empire and colonialism have disappeared from scholarship and textbooks produced by public law scholars, and yet their consequences cannot be overstated as discussed by Frost in relation to citizenship deprivation, also in this volume. What then, would it look like to reimagine public law teaching with imperial legacies exposed and linked to contemporary juridico-political problems and processes? Without a written constitution, students report that they often find it hard to grasp UK constitutionalism and the principles upon which it is based. It can be particularly confusing for international students from jurisdictions with written constitutions. One way our teaching team has dealt with that is to take comparative approaches to exploring the role and functions of a constitutions asking students to explore for example, how other postcolonial/post-conflict constitutions protect and negotiate rights of diverse populations.²⁷ We have examined, for example, the post-Apartheid South African Constitution which protects socio-economic

²¹ https://www.officeforstudents.org.uk/media/145556db-8183-40b8-b7af-741bf2b55d79/topic-briefing_bme-students.pdf.

²² UUK & NUS, *Black, Asian and Minority Ethnic Student Attainment At UK Universities: #CLOSINGTHEGAP* (2019), p.14.

²³ Survey participant, quoted in Jivraj, ‘Decolonizing the Academy - Between a Rock and a Hard Place’ (2020) *Interventions*. pp. 552-573.

²⁴ NUS, *Race for Equality* (2020), available at: <https://www.nusconnect.org.uk/liberation/black-students/equality-in-education>. See also: ‘Why is my Curriculum White?’ <https://www.youtube.com/watch?v=Dscx4h2l-Pk>; [We Were Never Meant to Survive](https://www.youtube.com/watch?v=Dscx4h2l-Pk); and <https://blogs.soas.ac.uk/decolonisingsoas/files/2018/10/Decolonising-SOAS-Learning-and-Teaching-Toolkit-AB.pdf>.

²⁵ SRA, *Benefits of diversity in the profession* (2023), available at <https://www.sra.org.uk/solicitors/resources/equality-diversity/benefits-diversity/>. See also: Jivraj, *Towards Anti-Racist Legal Pedagogy* (2020), p.5.

²⁶ Jivraj, *Towards Anti-Racist Legal Pedagogy* (2020).

²⁷ <https://constituteproject.org/>.

rights.²⁸ We also asked students to explore and compare the constitutions of Iraq and Bolivia as well as the constitution-making processes in Zimbabwe and Columbia led by colleagues who have been involved in those processes.²⁹ This allows students to explore similarities in terms of function and principles between constitutions, whilst beginning to understand constitutionalism. It also gives them a critical framework to explore how constitutions differ as well as how they emerge from contemporary political events, so for example exploring the Tunisian Constitution considering the Arab Spring.

In highlighting the UK's absence of a written constitution in its global context, whilst still being heralded as the home of the "mother of all Parliaments",³⁰ describing Westminster's role as an exemplary model of parliamentary democracy, locates Britain's colonial history for students, as well as the role of public law as integral to that past and its enduring legacies.³¹ It also allows for a global outlook in relation to notions of sovereignty adopting a critical approach as to why Westminster has been and continues to be described as the mother of all Parliaments and how that relates to the British Empire as discussed below and elsewhere in this volume. Students are usually then keen to discuss how they view the UK constitution in relation to others, particularly in relation to the continued role of Britain in the shaping of democracy as part of post-colonial and post-conflict constitution making including in the Commonwealth.³² Failing to question the role of the Westminster model of parliamentary democracy as a benchmark for constitution making, particularly within the Commonwealth, leaves its reified position unquestioned and limits the possibilities for teaching other models of democracy. For example, it is clear from textbooks,³³ and from having given talks and workshops on decolonising the curriculum at various English law schools, that whilst public law modules may cover the work of enlightenment thinkers such as Rousseau and Locke, highlighting the role of the American revolution (1765 to 1783) and French revolutions (1789 to 1815) as the defining moments in the emergence of liberal democracy, they are very unlikely to teach students about Locke's link to slavery (discussed below) or about the Haitian revolution (1791 to 1804). Yet the Haitian revolution gave rise to the first nation that emerged from a slave rebellion, highlighting the resistance of enslaved people which students will not otherwise hear about.³⁴ Understanding

²⁸ Including critical approaches to so-called transformative constitutionalism in South Africa, see, e.g., K. van Marle, 'Transformative Constitutionalism As/ And Critique' (2009) 20(2) *Stellenbosch Law Review* 286-301.

²⁹ See for example L. Eslava, 'Constitutionalization of Rights in Colombia: Establishing a Ground for Meaningful Comparisons' (2009) *Revista Derecho del Estado* 183-229 and A. Magaisa, 'Constitutionality versus Constitutionalism: Lessons for Zimbabwe's constitutional reform process' (2011) *OPENSOURCE Journal*, available at: <https://kar.kent.ac.uk/30495/>.

³⁰ For a discussion of Westminster as the "mother of all Parliaments" see for example: I. Jennings, *Parliament* (Cambridge: Cambridge University Press, 1969), p 517; D. Docherty and F.L. Seidle, 'Introduction', in F. L. Seidle and D. Docherty *Reforming Parliamentary Democracy* (McGill-Queen's University Press, 2003), p 3.; H.C. Deb., Vol. 718, col. 912, 2 November 1965; H.C. Deb., Vol. 736, col. 1763, 24 November 1966; H.C Deb., Vol. 176, col. 1280, 19 July 1990.

³¹ D. Prabhat, D. 'The *Begum* Case, Discretion, and Parliamentary Sovereignty: Unmaking the Constitutional Subject', in E. O'Loughlin and S. Wheatle (eds.), *Diverse Voices in Public Law* (Bristol: University of Bristol Press, 2023).

³² A. Harding, 'The 'Westminster Model' Constitution Overseas: Transplantation, Adaptation and Development in Commonwealth States' (2004), 4(2) *Oxford University Commonwealth Law Journal*. 143-166.

³³ See for example, D. Held, *Models of Democracy* (Stanford: Stanford University Press, 3rd edn., 2006).

³⁴ See: G. Bhabra, 'Undoing the Epistemic Disavowal of The Haitian Revolution', in I. Bueno, M. Teixeira and D. Strecker (eds.) *Decentring Global Sociology* (New York: Routledge, 2022).

these different revolutions, and the role of constituent power including those of enslaved peoples as in the case of Haiti, can bring a richer understanding on the development of democracy. Such an approach can enable us to engage students in thinking about whose voices are represented within constitutions or even who constitutes a citizen and indeed whether all citizens are protected equally under the rule of law.³⁵

Textbooks may draw on the “classical” theories such as that of Dicey, Raz and possibly the work of Lord Bingham³⁶ to discuss the limits of the rule of law and but often fail to identify who in particular is impacted by these conceptual limits that are often left unexplored. Students are quite shocked by the *Bancoult* judgment,³⁷ especially after watching John Pilger’s 2011 documentary, “Stealing a Nation”.³⁸ They often engage with the case and the constitutional principles it relates to (for example, prerogative powers) with sharper interest than would otherwise be the case. Relating the UK *Bancoult* judgment to subsequent European Court of Human Rights (ECtHR) and International Court of Justice (ICJ) rulings,³⁹ ratified by the UN General Assembly, on the sovereignty dispute between the UK and Mauritius is also an engaging way to discuss (incomplete) decolonisation, what the term means and what de jure and de facto decolonisation would look like. As the “Towards Anti-Racist Legal Pedagogy” resource highlights, public law is far from short of topics and cases that can be covered as part of the core of the curriculum, including relating to judicial review which is often be taught without engaging with race beyond terrorism and possibly immigration cases. Inquiries from the Royal Commission on the Morant Bay rebellion⁴⁰ to Bloody Sunday⁴¹ and most recently, Grenfell,⁴² are also areas that highlight the integral role of race and racialisation whilst also intersecting with socio-economic, (dis)ability and other forms of marginalisation.⁴³

³⁵ D. Prabhat, ‘The *Begum* Case, Discretion, and Parliamentary Sovereignty: Unmaking the Constitutional Subject’ (2023). See also, A.P. Harris, ‘Race and Essentialism in Feminist Legal Theory’ (2020) 42(3) *Stanford Law Review* 581-616 and E.C. Jordan, ‘Professor Angela P. Harris: A Life of Power at the Intersection: When the Equality Walk Matches the Equality Talk (2014) 47 *University of California Davis Law Review* 1081–1104.

³⁶ A.V. Dicey, *Introduction to the Study of the Law of the Constitution* (Indiana: Liberty Fund Inc. 8th edn, 1982); J. Raz, *The Authority of Law: Essays on Law and Morality* (Oxford: Clarendon Press, 1979). T. Bingham, *The Rule of Law*, (London: Penguin, 2011).

³⁷ *Bancoult v Foreign Secretary (No 2)* (HL) (2009) 1 AC 453.

³⁸ John Pilger, “Stealing a Nation” (2011) available at: <https://youtu.be/NVfABu61D3w?si=rehLtVgOrn21xNdM>.

³⁹ *Chagos Islanders v United Kingdom ECHR 460 (2012)* <https://hudoc.echr.coe.int/fre#%7B%22itemid%22%3A%22001-115714%22%7D>; International Courts of Justice Summary of the Advisory Opinion Summary on Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965 (2019/2 25 February 2019). <https://www.icj-cij.org/sites/default/files/case-related/169/169-20190225-SUM-01-00-EN.pdf>.

⁴⁰ Report of Royal Commission of Jamaica, (1866) 1. CO 137/411, available at: <https://ufdc.ufl.edu/CA01099977/00002/pdf>.

⁴¹ Lord Saville of Newdigate, *The Independent Report of the Bloody Sunday Inquiry* (London: The Stationery Office, 2010) available at: <https://www.gov.uk/government/publications/report-of-the-bloody-sunday-inquiry>.

⁴² M. Moore-Bick, *Report of the Public Inquiry into the Fire at Grenfell Tower on 14 June 2017* (London: Stationery Office, 2019) available at: <https://www.grenfelltowerinquiry.org.uk/>.

⁴³ In relation to the Ombudsman see for example, *R (on the application of Elias) v Secretary of State for Defence* [2006] IRLR 934, CA regarding the “blood link” criterion for Prisoner of War compensation eligibility whose decision can be compared to the recommendations of the Parliamentary Ombudsman <https://assets.publishing.service.gov.uk/media/5a7ba3c2ed915d13110608d9/1462.pdf>. In relation to Grenfell, see P. Tuitt, ‘Law, Justice and the Public Inquiry into the Grenfell Tower Fire’ in D. Bulley, J. Edkins and N. El-Enany, (eds.), *After Grenfell: Violence, Resistance and Response* (London: Pluto Press, 2019).

Locke, Slavery and Public Law in the Built Environment.

As mentioned above, teaching about John Locke, widely regarded as one of the most influential Enlightenment thinkers foundational in the study of law, provides another opportunity to question presumed knowledge within public law. Locke's ideas on natural justice, democracy, the social contract and key principles such as the separation of powers,⁴⁴ which remains a cornerstone of the UK constitution, feature in public law textbooks and curricula. Yet how many law-school teachers, let alone students are aware of his connections with, and views on, slavery and the slave trade? Some (critical) property lawyers may explore the impact on the white settler occupation of indigenous lands in North America, and other imperial activities of white Europeans, undoubtedly influenced by his writings on private property leading to expropriation of property and resources.⁴⁵ However, from the surveys, interviews and workshops I have conducted, mention of Locke's politico-philosophical and material links to the slave trade is scant.⁴⁶ This lack of awareness is, frankly, disturbing juxtaposed against his arguments in Chapter VIII of his second treatise, where his "enlightenment" ideas foreground governmental accountability to the people against the tyranny of the divine right of kings. How then can this history, in which his ideas have been so vital to the development of modern democracy, be presented to students in an engaging way that foregrounds the contradictions and tension for our contemporary democracy?

As part of the DecoloniseUoK initiative, Kent Law School PhD students formed a research collective, seeking to influence their research curriculum and environment.⁴⁷ Anamika Misra, uncovered invisibilised knowledge surrounding key figures after whom campus buildings (colleges at the time) were named, including economist John Maynard Keynes and John Locke.⁴⁸ Even the Master of Keynes College stated at the time that she was unaware of Keynes' involvement in colonial violence. As I have explored elsewhere in relation to the topic of contested heritage, the ways in which history is portrayed in the built environment influence the expression of cultural power and how people (in this case law students) experience place.⁴⁹

The building named after Locke on the University of Kent campus is inconspicuous and goes widely unnoticed by the thousands of students that walk past or go inside. What also goes unnoticed is the historical and colonial context within which his thinking came to be developed. By undertaking the "Decolonise Locke" audio-guided walk on campus, students hear that:

⁴⁴ J. Locke, *Two Treatises of Government*, P. Laslett (ed.) (Cambridge: Cambridge University Press, 1988).

⁴⁵ R. Bernasconi and A.M. Mann, 'The Contradictions of Racism: Locke, Slavery and the Two Treatises', in A. Valls (ed.), *Race and Racism in Modern Philosophy* (Ithaca: Cornell University Press, 2005).

⁴⁶ Jivraj, *Towards Anti-Racist Legal Pedagogy* (2020).

⁴⁷ A wider resource and network for postgraduate students and early career scholars was set up by early career researchers including a member of the collective: <https://decolonialdialogue.wordpress.com/>. See also: A.R. Memon and S. Jivraj, 'Trust, courage and silence: carving out decolonial spaces in higher education through student-staff partnerships' (2020) 54 *The Law Teacher* 475-488.

⁴⁸ A. Misra, 'Decolonising Keynes: Between Memory and History' in Thomas and Jivraj (eds.), *Towards Decolonising the University* (2020), pp. 33-47; Misra, 'Decolonising John Locke: A Guided Audio Walk' (2020); A. Misra, 'Looking Back at Lisbon: Resisting Disappearance in The Face of Colonial Nostalgia' (2023) 49 *Third World Approaches to International Law Review Reflections* 1-8 <https://twailr.com/looking-back-at-lisbon-resisting-disappearance-in-the-face-of-colonial-nostalgia/>.

⁴⁹ See: R. Drayton, 'Rhodes Must Not Fall? Statues, Postcolonial 'Heritage' and Temporality' (2019) 33(4) *Third Text*. 651, 653.

“Locke was an investor in the slave trade through the Royal Adventures company...succeeded by the Royal African company (RAC) ...which has Locke logged as one of its original investors.⁵⁰ They continue their walk around campus hearing about how the RAC “kidnapped, enslaved and transported close to ninety thousand Africans to plantations in the British colonies in America and the Caribbean.”⁵¹

As they arrive at the small campus supermarket with which they are familiar, they must look carefully to find the Locke building somewhat hidden to the side of it. At this point they learn that Locke was involved in the Council of Plantations (between 1668 and 1675), when the colony of Carolina was established and that his role enabled “him to influence the development of its Constitution which “established norms that legitimised the inhumane treatment of enslaved Africans and is still regarded as a symbol of plantation slavery.”⁵² They are then asked to take a moment of reflection, and wait for everyone to gather, before discussing whether the building should be renamed or the name be “retained and explained” with the information more publicly available on a plaque or via a QR code.

Concluding Thoughts

The Locke Walk gives both students and staff an opportunity to critically engage and reflect on a key moment from public law through the portal of Locke’s involvement in the writing of the Constitutions of Carolina which influenced the American Bill of Rights. Although some have contested Locke’s connections with the slave trade, dismissing it as part of his role as an administrative clerk during the colonial period,⁵³ this contestation adds to the opportunity for all involved in a public law curriculum to deepen and question their assumed knowledge. It provides an opportunity to ask and explore fundamental questions about racialised notions of citizenship and the limits of the rule of law within our democracy.⁵⁴ Of course, teachers are right to be nervous about being drawn into “culture war” pitfalls revolving around political correctness and the reprimand that we cannot judge the past against contemporary values. Nevertheless, such arguments do a disservice to our students who want to be able to have space available to them to discuss difficult and uncomfortable issues in order to *feel* that they have a stake in our democracy. As the Rhodes Must Fall Oxford and other student-led movements discussed above have demonstrated, a partial curriculum is no longer acceptable.⁵⁵ Indeed, as I and others have argued, failing to reckon with (public) law’s historical and contemporary role in racialised violence constitutes a lost opportunity to challenge Eurocentric aspects of the curriculum including within our law schools.⁵⁶ Whether learning from decolonising the

⁵⁰ R. Bernasconi. and A.M. Mann, ‘The Contradictions of Racism: Locke, Slavery and the Two Treatises’, in Valls (ed.), *Race and Racism in Modern Philosophy* (2005).

⁵¹ Misra, ‘Decolonising John Locke: A Guided Audio Walk’ (2020).

⁵² Misra, ‘Decolonising John Locke: A Guided Audio Walk’ (2020).

⁵³ H. Brewer, ‘Slavery, Sovereignty, and “Inheritable Blood”’: Reconsidering John Locke and the Origins of American Slavery’ (2017) 122(4) *The American Historical Review* 1038–1078.

⁵⁴ C. O’Callaghan ‘Concerning a Critical Legal Pedagogy: Exposing Race Thinking in Political Canon’, *Critical Legal Thinking*, 7 December 2015, available at: <https://criticallegalthinking.com/2015/12/07/concerning-a-critical-legal-pedagogy-exposing-race-thinking-in-political-canon/>.

⁵⁵ Rhodes Must Fall Oxford, *Rhodes Must Fall: The Struggle to Decolonise the Racist Heart of Empire* (2018).

⁵⁶ F. Adebisi and S. Jivraj, ‘Racism as Legal Pandemic: Thoughts on Critical Legal Pedagogies’, in D. Cowan and A. Mumford (eds.), *Pandemic Legalities: Legal Responses to COVID-19 – Justice and Social Responsibility*

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academy/law school or anti-racist pedagogy initiatives or critical legal and other literature, we must work in conjunction with our students, taking steps in what is a life-long endeavour, where self-reflexivity, courage and collaboration is essential for a more just world; one in which law schools, and especially public law (teachers) can play our part and indeed lead the way.⁵⁷

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(Bristol: Bristol University Press, 2021), pp. 65-78; Adebisi, Jivraj & Tzouvala, *Decolonisation, Anti-Racism and Legal Pedagogy* (2023).

⁵⁷ F. Adebisi, *Decolonisation and Legal Knowledge: Reflections on Power and Possibility* (Bristol: Bristol University Press, 2023).