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**Running a never-ending race to catch up with  
the western international lawyers**

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European University Institute  
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**Running a Never-ending Race to Catch up with the  
Western International Lawyers**

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## **Abstract**

For a long time, discussions on the diversity of international legal academia and practice have not been properly addressed. Protagonists from the Global South were not even considered as relevant issue-setters of international law. However, the situation is gradually changing. More and more academics, practitioners, and students both from the Global South and Global North raise their voices to address pressing issues of discrimination, sexism, and racism that we currently observe in the international legal sphere. This paper offers a glimpse into some of these challenges drawing from the author's personal experiences. It points to existing problems of the diversity in international legal institutions, representation in international legal academia, and publishing practices. This essay finally offers suggestions for how international lawyers can help each other to overcome existing inequalities and create a better environment for future generations of international legal scholars and practitioners.

## **Keywords**

universality of international law; Global South; reflexivity; gender inequalities; decolonization of the syllabus

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## Introduction

Some years after I entered the field as a student, I realized that my path in international law, as a Kyrgyz female lawyer, would not be particularly easy. Central Asia is not a region that is famous for its great academic contributions to international law. Nevertheless, despite the family's dissuasions and friends' comments that international law does not make sense because nobody follows it, I decided to pursue my career keeping in mind that this legal niche should be available for everyone – in the end, it is *international*. However, when I finally found myself in this international legal environment, I faced some serious difficulties. While being a student, I did not realize that the field to which I am attaching my future is mostly Western, white, and male. Also, coming from a country with a weak system of teaching and promoting international law, made me discover the field largely on my own, which often resulted in my misinterpretations and misunderstandings of fundamental issues.

Most challenging in adapting to a new foreign system was and still is the production of scholarly work. Different legal cultures set their own expectations towards publication standards, amounts, and processes. But after all, if you want to be recognized, you have to master English, adapt a particular European or North American style of writing, and publish constantly.<sup>1</sup> This overwhelming amount of tasks that a young scholar from a developing country has to learn could trigger not only delays in delivering the main work (like a dissertation) but also anxiety and mental health issues.

I believe that most of the readers of this essay can relate to my experiences as well. First, the recognition of the fact that the system you work in is severely damaged came not in the immediate aftermath of the entry to the field. It is rather a long process of putting all puzzles together, which always comes with your own experiences. After countless conversations with my peers, both from the Global South and North as well as after my self-reflections, I finally understood these calls to challenge the abusive practices and traditions that are inherent to international legal academia and practice. With time these calls for a 'post-Western' and decolonized field are becoming louder and louder.<sup>2</sup> Although the debate about masculinity and eurocentrism in international law has been going on for several years and little seems to be changing, this paper will look at how we, international law scholars and practitioners, can help ourselves now and take a step closer to a changed system. It will build on my personal experiences, identifying the challenges that exist on the ways of young international lawyers coming from the Global South. It will then suggest how to encourage yourself, be you an early career scholar/practitioner or an already established international lawyer, as well as others to look at international law bearing in mind diverse educational backgrounds, gender, and origin. Supporting each other is crucial in this endeavor as well as passing experiences on how one is confronted with the Western white masculinity of international law as well as how one maybe even overcame these challenges through teaching, mentoring, and networking. Hearing the

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<sup>1</sup> It is worth noting that these two writing styles also differ from one another. A few features inherent to the styles are that in the European style an author tends to provide objective analysis while in the North American style an author tries to come up with arguments supporting their personal views. Additionally, expectations towards articles' length as well as their philosophical reasoning also largely vary. All this creates additional hurdles to scholars from the Global South since besides language challenges they have to swap between their and Western styles, which might be extremely time-consuming. For the further remarks on writing styles see footnote 22.

<sup>2</sup> Mohsen al Attar and Shaimaa Abdelkarim, *Decolonising the Curriculum in International Law: Entrapments in Praxis and Critical Thought* (Aug 21, 2021). Law & Critique, forthcoming. Available at SSRN: [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3923429&download=yes](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3923429&download=yes)

voices of lawyers coming from different parts of the world is vital for international law. In the end, it is *international*.<sup>3</sup>

### Identifying the problem: the exclusiveness in the international legal order

The discussions on the lack of diversity within the field of international law have started already for some time. The international blawgosphere publishes more and more posts about the problems that exist in international law academia and practice.<sup>4</sup> These problems are not new: international law is Western, white, and male.<sup>5</sup> Like many other spheres and professions, international law has been predominantly developed by male elites, who brought their perspectives, which mostly benefited their interests. Yet, why are the issues of these entrenched paternalistic white male views so actively challenged by international legal academics and practitioners not only from the Global South but also from the North? The answer is: international law is *international*.<sup>6</sup>

It is not only international by design but also meant to be representative and diverse in terms of produced scholarship and legal practice. International institutions celebrate diversity (although not always succeed in having one) and welcome different views, approaches, practices, and interpretations. Looking at the 'World Court', the Statute of the International Court of Justice encourages national diversity on its bench.<sup>7</sup> Even more generally, the United Nations Charter, which is based on the principles of equality of all states, despite their size, power, or resources, can be seen as a standard-setter for the field.<sup>8</sup> Yet, we see that the real picture does not reflect the intentions of the creation of such institutions. Unfortunately, today's international law academia and practice accommodate only a few people from the Global

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<sup>3</sup> This statement will be brought several times throughout the paper and it aims to underline that international law is not international, as the described challenges confirm, but it should be international, meaning it should accommodate perspectives of the field from different regions, and be reflective with regards to who creates international legal documents as well as who interprets them.

<sup>4</sup> See e.g. Mohsen al Attar, *Subverting Racism in / through International Law Scholarship*, OPINIO JURIS (Mar 3, 2021), <http://opiniojuris.org/2021/03/03/subverting-racism-in-international-law-scholarship/> (last visited Apr 20, 2021); Felix Lange, *Hard times for voices from the Global South*, VÖLKERRECHTSBLOG (Feb 18, 2019), <https://voelkerrechtsblog.org/de/hard-times-for-voices-from-the-global-south/> (last visited Apr 20, 2021); Symposium: Teaching and Researching International Law – Global Perspectives, AFRONOMICSLAW (Sep 13, 2020), <https://www.afronomicslaw.org/index.php/2020/09/13/symposium-teaching-and-researching-international-law-global-perspectives> (last visited Apr 20, 2021).

<sup>5</sup> See e.g. "[b]oth the structures of international lawmaking and the content of the rules of international law privilege men; if women's interests are acknowledged at all, they are marginalized. International law is a thoroughly gendered system." Hilary Charlesworth, Christine Chinkin & Shelley Wright, *Feminist Approaches to International Law*, 85 THE AMERICAN JOURNAL OF INTERNATIONAL LAW 613–645 (1991), pp. 614-615. "[In the Oxford Handbook of the History of International Law] structure remains distinctively Eurocentric: most themes and actors belong to the understanding of international law as a modernizing project with no geographical bias and no implication in commercial [...]; the encounters between continents all involve [...]; and finally, out of the 21 individuals presented in portrait, 19 are white European men." Anne-Charlotte Martineau, *Overcoming Eurocentrism? Global History and the Oxford Handbook of the History of International Law*, 25 EUROPEAN JOURNAL OF INTERNATIONAL LAW 329–336 (2014), p.330.

<sup>6</sup> Realizing the complex discussions around the internationality of international law and accepting that international law is heavily affected by colonial legacies and was influenced by the most powerful to universalize their norms, this paper has no intentions in delving into such an analysis but instead, just base its argumentation on the idealistic perception of international law – a diverse and truly multinational field. For the discussion on the historical narratives of international law see ANNE ORFORD, *INTERNATIONAL LAW AND THE POLITICS OF HISTORY* (2021).

<sup>7</sup> United Nations, Statute of the International Court of Justice, 18 April 1946, Art.5.

<sup>8</sup> One remark is in order: while the UN Charter and the international legal order in general provides for sovereign equality, the reality shows that this phenomenon is rather a "myth". See e.g. Simon Chesterman, *An International Rule of Law?*, 56 THE AMERICAN JOURNAL OF COMPARATIVE LAW 331–361 (2008); TAM SIN PHILLIPA PAIGE, *PETULANT AND CONTRARY: APPROACHES BY THE PERMANENT FIVE MEMBERS OF THE UN SECURITY COUNCIL TO THE CONCEPT OF "THREAT TO THE PEACE" UNDER ARTICLE 39 OF THE UN CHARTER* (2019), Chapter I, <https://brill.com/view/title/54194>.



South, who managed to become authoritative members of the international legal community. This inequality has been institutionalized already for a while: academic publishers and international organizations, like the UN, repeat their practices by reinforcing existing hierarchies of the Global North and South. They recruit or publish mostly the graduates of prestigious Western universities because only they can afford unpaid internships<sup>9</sup>, and they are more likely to master English and obtain the necessary doctrinal legal education to produce the scholarship that fits the topical and writing style preferences of the Western publishers.

The field becomes more and more competitive from year to year and it is already impossible to follow who is doing or writing what, since the mushrooming journals and edited volumes overwhelm us with new analyses, theories, and interpretations on a daily basis. It became impossible to keep up with all the publications of different authors and journals. This overproduction made us rely only on the names we know. Also, we see the names we already know much more often because those who verify the quality of the scholarly work are very often those coming from exactly the same academic circles. In this tsunami of publication, we pick the authors already verified by us or our more senior colleagues which leads to the problem that we read again and again only about the western perspective of international law.

Another big problem in this non-stop scholarly production is that females are largely excluded. Tenured professors are mostly men; high-ranking international law journals publish visibly more men than women; men tend to cite men even though there are women researching the same questions and so forth.<sup>10</sup> Although women are now allowed to walk across grass plots<sup>11</sup> in Oxbridge<sup>12</sup>, unlike Virginia Woolf in the first half of the last century, challenges still exist when it comes to a woman from academia raising her voice. A more recent study of the two biggest publishing houses in the field of international law showed that, out of 65 authors who published with the Oxford University Press (OUP) since 1988, only 18 (i.e. the 27,7%) were female authors (study of the OUP's Oxford Monographs in International Law series); while, out of 141 authors who published with the Cambridge University Press (CUP), only 54 (i.e. the 38%) were women since 1997 (study of the CUP's Cambridge Studies in International and Comparative Law series).<sup>13</sup>

Academic publishing is very important because in current realities those who publish also speak international law: "international law is no longer about what states do but, rather, about what academic international lawyers do."<sup>14</sup> Indeed, academics and the textbooks and articles they produce are vital for the development of the field. Academics are often the ones taking up the positions of judges, arbiters, advocates, leading councils in international courts, and tribunals, and – not less important – the work products of academics are considered to be a

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<sup>9</sup> See e.g. Parisa Zangeneh, *Internships in International Criminal Justice Institutions*, OPINIO JURIS (Jul 31, 2020), <http://opiniojuris.org/2020/07/31/internships-in-international-criminal-justice-institutions/> (last visited Apr 14, 2021). "The internship schemes in place are structured to favor people from wealthy countries and/or backgrounds, which undermines this objective and weakens institutions' claims to political and legal moral authority and legitimacy."

<sup>10</sup> See Joseph Weiler's interview with Sarah Nouwen, YouTube (Jul 22, 2019) [https://www.youtube.com/watch?v=ONVuF\\_mRiYM](https://www.youtube.com/watch?v=ONVuF_mRiYM). See also Women in Academia (Quick Take) (Jan 23, 2020), CATALYST, <https://www.catalyst.org/research/women-in-academia/> (last visited Aug 26, 2021). Aniruddha Ghosh and Shreya Tandon, *A Lot Still Needs to Be Done to Address the Gender Gap in Academia* (Aug 4, 2018), THE WIRE, <https://thewire.in/education/women-in-academia-gender-pay-gap> (last visited Aug 26, 2021). PrawfsBlawg: Gender and Legal Scholarship (Jun 18, 2015) <https://prawfsblawg.blogs.com/prawfsblawg/2015/06/gender-and-legal-scholarship.html> (last visited Aug 26, 2021).

<sup>11</sup> Virginia Woolf, *A ROOM OF ONE'S OWN* (1929).

<sup>12</sup> A phrase combining the names of the cities Oxford and Cambridge. Woolf never makes it clear whether she is referring to Oxford or Cambridge in her book.

<sup>13</sup> Talida Dias (@tidesouzadias), Mar 18, 2021 <https://twitter.com/tidesouzadias/status/1372189404798783499>; Mar 19, 2021 <https://twitter.com/tidesouzadias/status/1372511034167164932> (Twitter).

<sup>14</sup> Jan Klabbers, *On Epistemic Universalism and the Melancholy of International Law*, 29 EUROPEAN JOURNAL OF INTERNATIONAL LAW 1057–1069 (2018), p. 1059.

subsidiary source of international law.<sup>15</sup> These materials are passed on the future generations of international lawyers, and excluding women from publishing and raising their voice might be extremely damaging for the future perceptions of international law simply because it might become severely outdated and never catch up with the world realities.

Various studies suggest that the cause of the heavy maleness in the academic world (not only in international law) is that women still experience various types of harassment within the academic setting: ranging from sexual harassment and discrimination based on the marital status and presence of children.<sup>16</sup> The latter appears to have an enormous impact on women's academic promotions, such as getting tenure-track jobs.<sup>17</sup> The childcare also impacts a woman's availability to travel to conferences and build networks, both of which are extremely important for promoting one's work and enhancing the chances to climb the career ladder.<sup>18</sup> The lack of time caused by the unequal care responsibilities also very often pushes women to reject working on journal articles as they require more time and resources, and instead focus on shorter and easier-to-publish pieces like book chapters or conference papers.<sup>19</sup>

The gender imbalance in international law academia cannot be a surprise looking at the ultra-low number of international law female practitioners taking prestigious positions. Only four women (in comparison with 104 men) sat on the bench of the International Court of Justice since its very inception.<sup>20</sup> The International Law Commission shows even a worse picture: of the 229 members, there are only seven women.<sup>21</sup> Although the situation with gender parity in UN human rights organs and mechanisms seems better<sup>22</sup>, still, higher positions at the majority of these bodies are being held by men, including country mandates of Special Rapporteurs, where the female appointment rate is just 18.52%.<sup>23</sup> Women remain underrepresented in large law firms practicing international law as well. For instance, McKinsey recently analyzed its gender representation in senior management teams and corporate board in 15 countries and

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<sup>15</sup> ANTHEA ROBERTS, *IS INTERNATIONAL LAW INTERNATIONAL?* (2017), p. 4.

<sup>16</sup> Troy Vettese, *Sexism in the Academy: Women's Narrowing Path to Tenure* (2019), <https://nplusonemag.com/issue-34/essays/sexism-in-the-academy/>. See also Amani El-Alayli, Ashley A. Hansen-Brown & Michelle Ceynar, *Dancing Backwards in High Heels: Female Professors Experience More Work Demands and Special Favor Requests, Particularly from Academically Entitled Students*, 79 *SEX ROLES* 136–150 (2018), pp. 137–138.

<sup>17</sup> Cathy Ann Trower, *Women Without Tenure, Part 1* (Sep 14, 2001), *SCIENCE | AMERICAN ASSOCIATION FOR THE ADVANCEMENT OF SCIENCE*, <https://www.sciencemag.org/careers/2001/09/women-without-tenure-part-1> (last visited Aug 26, 2021). See also Nicholas H. Wolfinger, *For Female Scientists, There's No Good Time to Have Children*, *THE ATLANTIC* (Jul 29, 2013), <https://www.theatlantic.com/sexes/archive/2013/07/for-female-scientists-theres-no-good-time-to-have-children/278165/> (last visited Aug 26, 2021).

<sup>18</sup> Editorial, 17 *INTERNATIONAL JOURNAL OF CONSTITUTIONAL LAW*, ISSUE 4 1025–1044 (2019), p. 1028. I would also suggest that similar practices are inherent to the international law practice as well.

<sup>19</sup> *Id.*, pp. 1030–1031. See also Farnush Ghadery, Shaimaa Abdelkarim and Rohini Sen, *Collaborative Praxis: Unbinding Neoliberal Tethers of Academia*, *FEMINISTA JOURNAL* (Jun 5, 2021), <https://feministajournal.com/collaborative-praxis-unbinding-neoliberal-tethers-of-academia/> (last visited Aug 26, 2021).

<sup>20</sup> Members of the Court past and present, <https://www.icj-cij.org/en/all-members>.

<sup>21</sup> Priya Pillai, *Women in International Law: A Vanishing Act?*, *OPINIO JURIS* (Dec 3 2018), <http://opiniojuris.org/2018/12/03/women-in-international-law-a-vanishing-act/> (last visited Dec 30, 2020).

<sup>22</sup> "In the Committee on the Elimination of Discrimination against Women, the representation of women has historically been above 90 per cent. As at 1 May 2021, the representation of women was at least 50 per cent in only three treaty bodies: the Committee on the Rights of the Child has gender parity, 52 per cent of the members of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment are women, and women represent 67 per cent of the members of the Committee on the Rights of Persons with Disabilities. In the remaining six treaty bodies, the average of women's representation was 31 per cent, with the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families having the lowest number of female members (2 of 14). While over the years some treaty bodies have attained greater gender balance in their composition, this average is far from reflecting gender parity." United Nations General Assembly, Human Rights Council, *Current levels of representation of women in human rights organs and mechanisms: ensuring gender balance A/HRC/47/51* (May 21, 2021), p.4.

<sup>23</sup> *Id.*, p.40.

found out that the average percentage of females equals 15% only.<sup>24</sup> This is a very discouraging number for young female international law scholars and students who are willing to fight their way and stay in this competitive field. Obviously, these problems are still deeply rooted in the national legal systems of almost all jurisdictions of the globe. The question of why we see such low numbers of female international lawyers both in academia and practice should be approached more generally – states and private higher education institutions should monitor what happens to women enrolled in law schools and where they go after graduation. In the academic world, there are some initiatives to these gender gaps. Top international law journals, like the *European Journal of International Law* and *I•CON Journal*, are monitoring these problems, although the long and challenging path is still to be paved before coming closer to gender equality in the international legal sphere.<sup>25</sup>

The segregation inside the field points at the current status of the universality of international law academia and practice. Instead of being the ‘invisible college of international lawyers’, this ‘college’ is rather Western-elitist, “in which academics from the so-called Global South are relegated to the role of the eternal students.”<sup>26</sup> I personally think that we all have to learn throughout our lifetime, yet, this stark separation between those who can become experts and those whose gender, educational background, race, social class, and multiple other factors serve as an artificial barrier should be eliminated first of all, for the sake of field’s prosperity. It is quite encouraging that more and more attention is being paid to the existing gender and racial imbalances both from Western lawyers and academics and those coming from the Global South. This essay does not argue under any circumstances that the possibilities for young scholars from the West should be limited, but rather that we all have to start to practice self-reflexivity – to be aware of our own experiences and background, as well as to try to explore what is there beyond our international legal environments. By doing that, we could become a real global society and building a stronger, diverse, and respectful field of international law.

### **Non-Western legal education: a barrier to advance international law?**

“In academia, people don’t feel able to talk about their backgrounds freely because they think it will negatively affect their career.”<sup>27</sup>

It would not surprise anyone: the majority of young international scholars aim at being educated and be recruited by Western institutions because fighting the general inequalities is not in their hands (and maybe not even in their plans). Many think that once they enter the elite environment of the international legal field in well-off countries and institutions they will have more power and authority to actually influence international law and change current perceptions. The third world approaches to international law and the rising popularity of Asian and African legal journals with editorial teams from prestigious institutions are already a promising step towards the internationalization of international law. This essay does not try to

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<sup>24</sup> McKinsey & Company, *Diversity Wins: How Inclusion Matters* (May 19 2020), p 16. The 15 countries were (in order of most female representation to least): Norway (28%); Australia (27%); Sweden (24%); United States (21%); Singapore (19%); United Kingdom (18%); South Africa (18%); Nigeria (17%); Denmark (13%); France (13%); Brazil (8%); Germany (8%); Mexico (8%); India (5%); and Japan (3%).

<sup>25</sup> For the statistics on accepted manuscripts submitted to the *European Journal of International Law* on geographical representation, gender, and language see Sarah Nouwen, *Vital Statistics*, *EJIL: TALK!* (Aug 5, 2020), <https://www.ejiltalk.org/vital-statistics-5/> (last visited Jan 3, 2021). This statistics can prove once again that up until today international law is white, male and Western. Editorial, *supra* note 18.

<sup>26</sup> Anne Peters, Introduction to the Series: *Dialogical International Law* in MARY ELLEN O’CONNELL, CHRISTIAN J. TAMS & DIRE TLADI, *SELF-DEFENCE AGAINST NON-STATE ACTORS* (1 ed. 2019), p.19.

<sup>27</sup> Peter Wilby, *The lawyer who wants more academics to ‘come out’ as working class*, *THE GUARDIAN* (Jul 9, 2019), <http://www.theguardian.com/education/2019/jul/09/lawyer-wants-academics-come-out-as-working-class> (last visited Jan 4, 2021).

prove that young lawyers should give up their ideas to move from peripheries but it rather tries to discuss what barriers scholars from the Global South have and whether law schools all over the globe should rethink their scholarly approaches to international law.

As someone coming from Kyrgyzstan, I try to analyze problems that exist with the Central Asian law schools and what pushed me to seek a job abroad. Even though I studied at a private university which adopted an American higher education system, I still felt that my academic freedom is limited by the government. It would not be a mistake to claim that most of the law schools in Central Asia are controlled by different ministries, mostly of education, which set standards for examination and required courses. To graduate, I had to pass exams in the Kyrgyz language and the History of Kyrgyzstan. Both these exams took a lot of time for preparation, leaving little time to concentrate on my thesis and other exams in law courses. While studying law in all jurisdictions is a challenge with various bar exams and required internships, the problem with Kyrgyz law schools is that when it comes to qualification exams, the focus shifts from law to other (mostly) irrelevant to law disciplines.

Comparing public and private education institutions, the situation in public universities is even worse in relation to academic freedoms. Students there follow the already prescribed curriculum for each semester without the possibility to switch courses. Another problem is that inside Kyrgyz legal academia, international law in the post-Soviet space is perceived as something not really legal and a mere branch of political science that does not even have power in the international arena.<sup>28</sup> A corollary, international law tracks in law schools are heavily marginalized, which is also reflected in the decision-making of the ministries of education when they decide on required training for law students.

Moreover, the lack of resources at Central Asian law schools cannot be ignored. Again, I was privileged to attend a private university where we had subscriptions to some online databases like LexisNexis and Hein Online, while my peers from public law schools have never even heard of these platforms and used only paper materials available at their libraries, mostly written by Russian or Soviet scholars and of course translations of the core Eurocentric international law textbooks. Logically, the question of how to introduce students to quality materials in English arises when the costs of subscriptions and books are unbearable for state-funded (or even private) law schools. During my first law degree studies, I have never heard of the top international law journals and was not familiar with the journal system at all. I realize now that it is extremely important to explain to students where and how they can find reliable and high-quality material since it is an essential skill for both scholars and practitioners. This illiteracy leads to a myriad of problems such as publications in predatory journals by academics from the Global South and the inability of young lawyers to distinguish good scholarship from bad ones.

The lack of resources is reflected not only in the unfamiliarity of law students with the traditional (in the Western sense, of course) databases, journals, and publishers but also in the opportunity to take part in international law moot courts. During four years of my legal studies in Kyrgyzstan, there were zero calls for assembling a team. The problem here is three-fold: neither governments nor public and private law schools are ready to pay for their students to go abroad and compete with other teams who are better trained in international law in general. The private sector is also reluctant to support these kinds of initiatives due to the above-mentioned reason of not believing that international law is actually law. Thus, there is no interest for law firms to send their potential future employees to moot court competitions.

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<sup>28</sup> Sergey Sayapin, *The Post-Soviet Central Asia and International Law: Practice, Research and Teaching*, (Sep 15, 2020), <https://www.afronomicslaw.org/2020/09/15/the-post-soviet-central-asia-and-international-law-practice-research-and-teaching/> (last visited Jan 3, 2021).

The situation with international law in Central Asia might be similar to other countries that belong to the Global South, and even in some parts of the Global North, where international law is a marginalized discipline at universities and national institutions. Law students wishing to specialize in international law are supported neither by their governments nor by their universities. This is not a big surprise given what role international law plays in the country. One might argue (and I agree with that to a certain extent), that Asia seems to be more of a 'rule-taker' than 'rule-maker', which espouses my assumptions and experiences that international law is not very well promoted among law students.<sup>29</sup> These states (and in particular in Central Asia), should revise their perceptions of international law and learn how to rely on this discipline more. This would not only encourage more law students to choose to focus on international law but also help these states to get closer to the utopic equality of all states and maintain peace and security using the tools offered by international law. The paradigm must shift in the understanding and interpreting the phenomenology of international law on the governmental levels because there are law students willing to advance international law in their home countries, but the lack of resources and support ties their hands.

My argument is not that the Central Asian law schools must replicate the Western system of legal education. This would actually contradict the thesis of the internationalization of international law. The assumption is that law schools in the Global South need to do a better job by rearranging their scholarly isolation and keeping legal textbooks and other materials up to date which will likely espouse the efforts of teaching critical thinking to their students. I was not trained to think critically of what is written in a textbook by my professor – I was trained to learn it by heart to perform well during the exam (although the same might be experienced by law students in Europe as well). This is a completely obsolete approach that causes stagnation and demotivation to re-think international law. Students have to be taught not only how to read law but also how to question it. If this is accomplished, a student is free to rely on every source she or he perceives to be the right one<sup>30</sup>, and then it would not matter whether a book or journal article has been written by a white male coming from the Western hemisphere.

### **Publish and not perish or how to deal with language barriers while producing legal scholarship**

Publish or perish – a phrase very well known in Western international law circles. Why only Western? Authors from the Global South are not getting published to the extent the Western colleagues are and thus, we are nonexistent, at least in terms of the Western international legal publications world. One of the main reasons why this 'elite club of those being published' is almost unreachable for peripheral scholars is that Western scholarship and its academic system are almost independent of external influences and as a result, international law is predominantly interpreted and even designed by Western philosophical and epistemic traditions. Many issues relevant to the Global South and partly to the Global North like colonialism, poverty, development, racial injustice, and so forth remain marginal and if these topics are getting published, the arguments and analyses are largely presented and discussed by Western scholars from their Western perspectives. But what is the exact problem of

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<sup>29</sup> Antony ANGHIE and J.R. Robert G. REAL, Teaching and Researching International Law in Asia (TRILA) Project—2020 Report (2020), CENTRE FOR INTERNATIONAL LAW, <https://cil.nus.edu.sg/publication/teaching-and-researching-international-law-in-asia-trila-project-2020-report/> (last visited Aug 27, 2021), p.2.

<sup>30</sup> It is difficult to deny that we all tend to have our criteria or proxies, according to which we decide a piece is good or bad. Very often these criteria are based on the criteria your more senior colleagues have and try to promote among younger colleagues and students. While it is hard to escape these proxies, we have to try to diversify the literature we read. Here jurisprudence comes in handy: being able to navigate around different theories and prisms through which international law is read and understood, can make us more skillful in understanding different narratives about international law from different authors from different parts of the world.

scholars from the Global South in getting published? The answer has been partly offered in the previous sections of this essay – we were barely educated on how to produce publishable manuscripts and that it is an important part of an international law scholar's career.

Publishers may say that they would happily publish nonwestern scholars but there is simply a shortage of diversity in submissions. While this might well be the truth, it still cannot be a justification for the poor regional representation in high-quality international law scholarship. Returning to the study on Oxford University Press (OUP) and Cambridge University Press (CUP): the statistics of the CUP's Cambridge Studies in International and Comparative Law series show that out of 141 manuscripts, only ten were from authors with nationalities of Asian countries and six of Latin American countries while the rest of the Global South was not represented at all.<sup>31</sup> Among 65 titles in OUP's Oxford Monographs in International Law, four authors have African nationality, four Asian, two Eastern European, and one Caribbean (no authors with Latin American nationalities).<sup>32</sup> Obviously, the language problems and the ability to question international legal rules and doctrines are systemic problems inherent to national policies of teaching foreign languages and law in general. However, the barriers established by editors are a problem that could be at least discussed and even tackled by us.

Professor Alonso Gurmendi and Paula Baldini Miranda da Cruz wrote an excellent two-part blog post on the cultural barriers in international law writing. Cultural peculiarities in writing are very often perceived negatively by those who are used to the Western style of legal writing.<sup>33</sup> Gurmendi and da Cruz brought an interesting example of dissenting opinions of Judge Trindade of the International Court of Justice and in particular, their extraordinary length and reference to relatively old sources.<sup>34</sup> It is important to mention that the length is by no means an indicator of the quality of an argument. Very often it is quite the opposite. However, distinct cultural backgrounds still influence our analytical methods both in thinking and writing. The environment in which we grew up undoubtedly influenced our approaches to delivering arguments. As a native Russian speaker, I can assure the readers of this essay that my papers returned to me full of red ink and comments to shorten my sentences on multiple occasions. Writing short and straight-to-the-point sentences is not the writing culture I was taught and therefore, re-learning how to write, especially swapping between European and American styles where I either should be concise and non-repetitive or spread my arguments and repeat

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<sup>31</sup> Talita Dias, *supra* note 13.

<sup>32</sup> *Id.*

<sup>33</sup> One important remark is in order: when saying 'the western style of writing' it is necessary to mention that even inside the 'western world' (Western Europe and the US) there are multiple differences in how to approach legal reasoning and writing. The differences lie in various factors like the distinction between common law and civil law, language peculiarities (e.g. German scholars also tend to write in long sentences), and of course the distinct emphasis on either doctrinal or normative legal education. However, these Western nations, despite all the differences, have deeper roots in the field of international law. They have their historical backgrounds backed up by international law giants (Grotius, Vitoria, Suarez, Kant, Pufendorf, Wolff, Vattel, Grewe, etc. – all represent various regions of the central Global North) and thus, even if not accepted by the global Western community, they always have their own international legacies where they can thrive and produce scholarship. All of this becomes harder for international legal scholars from the Global South. See also Mohsen AL ATTAR, *Must International Legal Pedagogy Remain Eurocentric?*, 11 ASIAN JOURNAL OF INTERNATIONAL LAW 176–206 (2021), p. 184.

"Mainstream international legal history, as we portray it, furnishes a glowing example: Francisco de Vitoria was a Spanish-Catholic theologian in the court of Ferdinand and Isabella; Hugo Grotius was in-house counsel for the Dutch East India Company; Emer de Vattel, the son of a Swiss-Protestant clergyman, read Christian theology and metaphysics; John Westlake of Cornwall lectured at Cambridge and was the British delegate at the International Court of Arbitration; Lassa Oppenheim studied law in Germany before emigrating to England to take up appointments at the LSE and Cambridge; and Hersch Lauterpacht was Polish and also served at the same institutions. All were European, white, male, and paramount in developing Eurocentric international law."

<sup>34</sup> Alonso Gurmendi and Paula Baldini Miranda da Cruz, *Writing in International Law and Cultural Barriers (Part I)*, OPINIO JURIS (Aug 7, 2020), <https://opiniojuris.org/2020/08/07/writing-in-international-law-and-cultural-barriers-part-i/> (last visited Jan 3, 2021).

them throughout twenty thousand words, is still a major challenge for me as a young academic. It takes a lot of energy, time, and effort.

Anthea Roberts argues that

“[...] Instead of being a single community speaking a single language, albeit with different accents, international lawyers from different communities often speak different languages. [...] it is not always clear whether these communities are having the same debates, only in different languages, or whether their approaches differ in terms of their assumptions, arguments, conclusions, and world views. [...] The language reality that parallels this observation of dominance is the increasing turn to English as the common tongue for international education, international conferences, international publications, international meetings, and international dispute resolution. English has gone from being one state’s national language to the world’s most common second language.”<sup>35</sup>

While it is extremely important to have a common language to communicate with each other, international lawyers from the Global South who are not aware of these cultural differences or do not aim at adapting their communication are at risk of being not accepted by the ‘elite’ publishers and their scientific work will not reach a wider audience. Not only the writing style serves as a barrier for Global South scholars but also their choice of topics. Gurmendi and da Cruz call it a “topical blindness” of Western editors and it unavoidably influences international law leaving out “regional and peripheral realities.”<sup>36</sup> The paradox is that even the institutions from the Global South prefer candidates with publications in Western journals and book publishers and they set this requirement for academic promotions. This publishing race seems to be a vicious circle.

### **Practicing reflexivity to change the field**

Most of the problems related to international law academia and practice in peripheral regions (yet, I assume to a bunch of other disciplines as well) are structural and deeply rooted in the political and power developments of these regions. The legacies of different national and regional differences in international law together with Western approaches that happened to dominate the field will remain present for a long time. The majority of the above-mentioned difficulties should be addressed by various actors, in particular on a structural level of academic institutions, international organizations, and ultimately (and probably most importantly) the state. It is not in our hands as individuals to change the past and the historical narratives that have been taught throughout dozens (if not hundreds) of years or to force our national governments to reorganize their foreign policies which would be international law-oriented, but we, as a global community of academics and practitioners, can help each other in tackling these problems and create a space for an exchange of ideas, approaches, and reflections on international law. Practicing reflexivity, or in other words, self-understanding, self-critique, or the reflection on one’s biases, is one of the most important tools we can use in the fight for a more equal and diverse international legal field. My path of self-reflections has just started: what I know now is that I am not alone and there are people willing to talk about it and even use their more senior positions to challenge the inequalities. In the end, the final goal of international lawyers should be the international law’ space that accommodates lawyers from all over the world. As Susan Marks and Andrew Lang said:

by showing how our professional sensibilities are entrenched, transmitted and propagated through disciplinary habits of thought, assumptions, and dispositions, we are brought face to

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<sup>36</sup> Alonso Gurmendi and Paula Baldini Miranda da Cruz, *Writing in International Law and Cultural Barriers (Part II)*, OPINIO JURIS (Aug 7, 2020), <http://opiniojuris.org/2020/08/07/writing-in-international-law-and-cultural-barriers-part-ii/> (last visited Jan 3, 2021).

face with the processes through which we are ourselves enrolled in, and shaped by, the collectively produced disciplinary structures we inhabit. This can encourage us to engage with these processes in a more reflexive and critical way.<sup>37</sup>

### **Redesigning international law syllabus and teaching approaches**

The diffusion of Western international law approaches spread through textbooks and other primary materials used by law students around the globe. Students' perspectives on the field are shaped by the field's past, which without doubt reflects in their present encounters. Yet, the standards of keeping students updated on the main discussions through the 'traditional' texts do not in fact contribute to the diversification of the field and expansion of theoretical debates. However, it is in the hands of some of us, who teach and mentor, to rethink which international law shall be taught at law schools in both the center and periphery. Maybe stepping beyond issues of power and legitimacy in creating and receiving knowledge is rather impossible due to the fact that "knowledge is social and relational" but we can reach out to autoethnographies and reshape these perceptions.<sup>38</sup> Third world, feminist, indigenous, and queer approaches to international law as well as perspectives that focus on gender, race, and class are gaining momentum.<sup>39</sup> This is the right time to incorporate them into international law teaching around the globe as well as to start writing about one's own personal and anecdotal experiences related to the before-mentioned problems. To decolonize the international law syllabus, one needs no sophisticated tools and years of time. Just by challenging the monogamy of European epistemology in international law by explaining to students that epistemological plurality is what will make a lawyer an international one.<sup>40</sup> "[A]ll new forms of insight are either confirmed or dismissed by how they are received in the context of particular knowledge communities. Some insights, even if they are originally seen as irrelevant or idiosyncratic at best, may later come to be accepted."<sup>41</sup> Same with our self-reflections: if before they were not taken seriously and a few had an interest in reading them, the current situation is gradually changing and therefore, sharing your stories can be inspiring for others, especially younger generations.

Educators both from the Global North and South should re-approach the knowledge production by diversifying our international law reading. As students grapple with these issues, they are expanding their skillset and the ability to navigate through international law meta-narratives.

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<sup>37</sup> Andrew Lang & Susan Marks, *People with Projects: Writing the Lives of International Lawyers The International Lawyer as Ethical Agent*, 27 TEMP. INT'L & COMP. L.J. 437–454 (2013), p.449.

<sup>38</sup> Morgan Brigg & Roland Bleiker, *Autoethnographic International Relations: exploring the self as a source of knowledge*, 36 REVIEW OF INTERNATIONAL STUDIES 779–798 (2010), p.791.

<sup>39</sup> See generally (among others cited in this piece) Anna Spain Bradley, *Human Rights Racism*, 32 HARV. HUM. RTS. J. 1 (2019); Makau Matua, *Critical Race Theory and International Law: The View of an Insider-Outsider*, 45 VILL. L. REV. 841 (2000). Chimni, *Third World Approaches to International Law: A Manifesto*, 8 INTERNATIONAL COMMUNITY LAW REVIEW 3–27 (2006). RESEARCH HANDBOOK ON FEMINIST ENGAGEMENT WITH INTERNATIONAL LAW, (Susan Harris Rimmer & Kate Ogg eds., 2019). Dianne Otto, *Feminist Approaches to International Law*, in INTERNATIONAL LAW (2012), <http://oxfordbibliographiesonline.com/view/document/obo-9780199796953/obo-9780199796953-0055.xml> (last visited Aug 30, 2021). Christine Chinkin, *Feminism, Approach to International Law*, OXFORD PUBLIC INTERNATIONAL LAW, <https://opil.ouplaw.com/view/10.1093/law:epil/9780199231690/law-9780199231690-e701> (last visited Aug 30, 2021); GINA HEATHCOTE, *FEMINIST DIALOGUES ON INTERNATIONAL LAW: SUCCESSES, TENSIONS, FUTURES* (First edition ed. 2019); RATNA KAPUR, *GENDER, ALTERITY AND HUMAN RIGHTS: FREEDOM IN A FISHBOWL* (Paperback edition ed. 2020). Hiroshi FUKURAI, *Fourth World Approaches to International Law (FWAIL) and Asia's Indigenous Struggles and Quests for Recognition under International Law*, 5 Asian Journal of Law and Society 221–231 (2018). Aeyal Gross, *Queer Theory and International Human Rights Law: Does Each Person Have a Sexual Orientation?*, 101 PROCEEDINGS OF THE ANNUAL MEETING (AMERICAN SOCIETY OF INTERNATIONAL LAW) 129–132 (2007). Philipp Kastner & Elisabeth Roy Trudel, *Unsettling international law and peace-making: An encounter with queer theory*, 33 Leiden Journal of International Law 911–930 (2020). QUEERING INTERNATIONAL LAW: POSSIBILITIES, ALLIANCES, COMPLICITIES, RISKS, (Dianne Otto ed., 2018).

<sup>40</sup> AL ATTAR, *supra* note 33, p. 195.

<sup>41</sup> BRIGG and BLEIKER, *supra* note 38, p.798.



Looking at and analyzing injustice caused by, *inter alia*, heinous international treaties on the slave trade, colonialism, and the treatment of minorities will definitely assist students in understanding the conditions of modern international law and why we call it *international* although only a few nations designed it.

Those of us, who are members of 'elite' institutions, have a special role to play in challenging the current state of our field. As more visible scholars and practitioners, those international lawyers should bring up the afore-mentioned problems at their meetings and conferences and when possible, support their peripheral colleagues. It is, however, important to remember that by taking the stage to speak about problems, one should be very mindful of how to use this privilege in order not to reinforce hierarchies while trying to dismantle them.<sup>42</sup> Therefore, constant self-reflexivity is the way to new approaches to teaching international law.<sup>43</sup> A decolonized international law syllabus would espouse new ideas and inspirations among students, and allow the silenced voices to be heard.

Certainly, normative and Eurocentric positions are not to be excluded as they are also necessary for understanding the geopolitical background of modern international law as well as in challenging epistemological prejudices by discussing counter-narratives.<sup>44</sup> Yet, international law scholars can proactively use their diverse educational and cultural backgrounds in order to finally broaden and enrich international law "with a comparative law dimension."<sup>45</sup> However, throughout the teaching, by highlighting that challenging what 'international law giants' said, we can foster this vital capacity of students to think critically, a skill so necessary to all lawyers. Pointing at inequalities and being vocal about differences in social positions of students from the Global North and South might help to prepare the students for their future career steps. That is to say, inclusive, plural and *internationalized* international law can be the cornerstone of inspiration and encouragement for law students to study international law in depth. Moreover, the ability to articulate different approaches to international law will help future lawyers to transform the rules that were once written by white men from the West. "By jettisoning orthodoxy in legal pedagogy, we show our students the boundless possibilities that the third way begets. For this to happen, we must commit to subverting international law's, as well as our own, commitment to Eurocentrism."<sup>46</sup>

Shall we also teach law students how to publish and not perish? Absolutely. However, instead of teaching how to survive in the cruel world of publications by replicating the standards imposed by the behind paywall journals, we should accessibly explain the scheme of academic publishing and that top journals are not the only, and sometimes not the best places to raise your voice. Explaining how the publications world functions is important also for eradicating the predatory publishers, who often aim at scholars from the Global South and thus, damage their careers and reputations. Editors of top journals, in their turn, must communicate with potential authors and find a balance with regard to the writing styles and cultures. Gurmendi and da Cruz argue that in order to diversify published articles, editorial teams also have to be more diverse.<sup>47</sup> In my view, this diversity should be based on geography, but also at least on gender, social class, and SOGI. This diversity of legal backgrounds and writing cultures will help journals and publishers to differentiate incomplete manuscripts from good topics that are

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<sup>42</sup> Amna A. Akbar, Sameer M. Ashar, Jocelyn Simonson, *Movement Law*, Stanford Law Review, Vol. 73, 2021, Forthcoming, p. 53. Available at [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3735538#](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3735538#).

<sup>43</sup> Kyoko Kishimoto, *Anti-racist pedagogy: from faculty's self-reflection to organizing within and beyond the classroom*, 21 NULL 540–554 (2018). See also Adelle Blackett, *Follow the Drinking Gourd: Our Road to Teaching Critical Race Theory and Slavery and the Law*, *Contemplatively*, at McGill, MCGILL LAW JOURNAL (2017).

<sup>44</sup> AL ATTAR, *supra* note 33, pp. 205-206.

<sup>45</sup> Peters, *supra* note 26, p. 20.

<sup>46</sup> AL ATTAR, *supra* note 33, p.206.

<sup>47</sup> Gurmendi and da Cruz (Part II), *supra* note 36.

merely written in a style different from the one anticipated by editors.<sup>48</sup> Editorial teams can also encourage specific groups of people to submit their work, offering extra help and support. A great example is I•CON Journal, which makes a special focus and does extra research on female authors' submissions and calls on everyone to support their female colleagues, including by refusing to participate in panels.<sup>49</sup>

### ***Investment in expanding your skillset***

Non-Western scholars might benefit from investing in learning English and expanding their networks inside and outside of the Global South international legal sphere and by doing that, they will have more chances to finally spread their native knowledge of the foundations and epistemology of international law. Explaining what goes on in their part of the world might result in the production of empirical knowledge that could not only show the differences between West and South but also contribute to a better understanding of international law's reality. Transforming this knowledge into power to challenge structural and symbolic constraints of the modern global order is what can equalize the peripheral international law scholarship with the West.

Most certainly, the 'Englishness' of the international law field is likely to stay unchallenged. It is hard to argue that we do not need a common language for exchange because we obviously do. Acknowledging English monolingualism and the disadvantage it brings to the non-native speakers might become a step forward for understanding and accepting that the English language is not just a native language of a few nations, but instead a language for global communication. It could actually benefit from different cultures brought into the writing of non-native speakers. Moreover, English might be the most teachable foreign language on the globe, though many people still cannot master it. I have been learning English since I was ten years old. Yet, many factors like the bilingualism of Kyrgyzstan (there are two official languages – Kyrgyz and Russian) and, for instance, the unpopularity of English and North American cinematography in its original version left me with poor knowledge of the language because I had no chance to practice it outside of the classroom. This hurdle is arduous to tackle. However, given the importance of the English language for international lawyers, law schools should consider the incorporation of legal English in their curriculum. Understanding the legal terminology is a must in understanding law in our globalized world. Not less important, students have to have access to high-quality translations of the core materials. The initiatives such as Max Planck's digest for international law, which translates certain publications written in English or German into Russian and is available open access, is a great example of how well-established institutions can increase the variety of material for speakers of non-western languages.<sup>50</sup> I would assume that the same could be done the other way round. Manuscripts written in peripheral languages could also be translated into English and French by Global South scholars based in the Global North. This would facilitate the inflow of new approaches and views into the Western international law academia as well.

The contexts in which we find ourselves are not easy to change. The same applies to international law. And yet, we do not give up on it and move forward with advancing the principles we believe in. All the problems described above are complex, sensitive, and intractable – no straightforward answer could be given to address them. Nonetheless, the discussions of these issues are gaining momentum and give us hope for change. Global North and Global South scholars need to work together to improve the international legal order. And

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<sup>48</sup> *Id.*

<sup>49</sup> Editorial, *supra* note 18, pp. 1033-1034.

<sup>50</sup> Digest for International Law, Max Planck for Comparative Public and International Law, <https://dpp.mpil.de/>.

maybe one day we will witness the elimination of this hemispheric division of international lawyers, who are united by the same goals and values.

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