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Africa's human rights framework as an entry-point to decolonising education

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Abstract

Literature abounds on the decolonisation of education. Scholars bemoan the Eurocentric nature of the curriculum in most education systems in Africa, including in South Africa. Much of the literature suggests a total dismantling of the education system in Africa with a view to realising a unique African education system. Generally, it does appear that to ensure decolonisation the entire legal curriculum needs an overhaul. But could it be that the foundations of a decolonised approach to human rights education are, to some extent, already in place? To be exact, could this be gleaned from certain regional human rights instruments? Notably, Africa prides itself on a regional human rights system unique to the African region. Instruments enacted to address the peculiar realities of the African continent include the African Charter on Human and Peoples' Rights, the African Charter on the Rights and Welfare of the Child, and the Protocol to the African Charter on the Rights of Women in Africa. To what extent can this existing framework be relied on to decolonise human rights education? The aim of this chapter is to show how the existing regional framework on human rights law can be unpacked to address the concerns raised by proponents of decolonisation. By drawing on regional instruments, the chapter concludes that decolonisation of human rights education can be advanced through recourse to structures already in place. In fact, Africa is already playing a crucial role in the development of international human rights law and can be relied upon to enrich the international human-rights law curriculum. Of course, drawing such a conclusion based solely on human rights instruments could be inconclusive and in fact limited. However, the fact that these instruments create an entry point to decolonisation is a latent illustration of the possibility of making the best of existing frameworks.

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1   Introduction

The current debate on the decolonisation of the higher education system in South Africa cannot be divorced from the history of colonialism. During the colonial era, dating as far back as the late 1800s and early 1900s, European states including Belgium, Britain, Portugal, France, and Germany actively participated in the scramble for and partitioning of Africa, ultimately entrenching colonialism in most African states.[1] Education was a major feature on the colonialists' agendas, with Britain's investment in education, for example, being geared towards grooming an elitist class of African who would carry the aims of colonialism forward.[2] It is noteworthy that colonialism transcended the physical control of African states.[3] In the words of Fanon, it also encompassed the 'burial of [Africa's] local cultural originality [and] created people with an inferiority complex which rested in their souls'.[4] Colonial domination trickled down to specific aspects such as knowledge conceptualisation, with indigenous knowledge deemed irrelevant in Africa's adaptation to colonial goals.[5] Before colonialism, indigenous knowledge was the sole source of education in Africa. However, colonialism relegated indigenous knowledge to the back seat and generally perceived it as intellectually inferior, savage, barbaric, and backward.[6] Eurocentric knowledge was the ideal and of universal application.[7] The establishment of formal schools saw Eurocentric education systems take root. In the words of Mokula, these formal schools were laboratories in which 'social injustices such

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1   M Cross & A Ndofirepi *Knowledge and change in African universities Volume 1: Current debates* (2017) ix; J Koponen 'The partition of Africa: A scramble for a mirage?' (1993) 2 *Nordic Journal of African Studies* 117-135.

2   OF Nwanosike & LE Onyije 'Colonialism and education' (2011) 2 *Mediterranean Journal of Social Sciences* 41-47.

3   Cross & Ndofirepi (n 1); Koponen (n 1).

4   F Fanon *Black skin, white masks* (1967) 18.

5   C Abrokwaa 'Colonialism and the development of higher education: Policy impact on postcolonial Sub-Saharan African universities' in E Shizha & N Makuvaza (eds) *Re-thinking postcolonial education in sub-Saharan Africa in the 21st century* (2017) 203 at 203-204.

6   KB Motshabi 'Decolonising the university: A law perspective' (2017) 40 *Strategic Review for Southern Africa* 108.

7   As above. See also A Mbembe 'Decolonising knowledge and the question of the archive' Lecture delivered at the Wits Institute for Social and Economic Research https://wiser. wits.ac.za/system/files/Achille%20Mbembe%20-%20Decolonizing%20Knowledge %20and%20the%20Question%20of%20the%20Archive.pdf (accessed 29 September 2022). According to Mbembe, 'A Eurocentric canon is a canon that attributes truth only to the western way of knowledge production. It is a canon that disregards other knowledge traditions.'

as class, gender, language and racial inequality were inculcated, tested, implemented and perpetuated'.[8] With the education system geared towards drawing colonies closer to the structures of the colonisers, indigenous knowledge and traditional schools were suppressed, devalued, and demonised.[9]

Like many African states, as a former British colony South Africa suffered the brunt of colonialism and this has impacted on the higher education system. South Africa's history of apartheid added a further layer of discrimination to the higher education system. With a history of racial segregation resulting from colonialism and apartheid, indigenous knowledge was subjugated in a higher education system designed to entrench white supremacy.[10] During the apartheid years historically white universities maintained hegemony. Badat describes the higher education system during this time as purely Eurocentric.[11] The dawn of democracy brought with it a reasonable expectation that discriminatory practices in the higher education system would be bade – a none too fond – farewell. However, commentators maintain that the structures of apartheid and colonialism are alive and well and continue to thrive to the detriment of the black population.[12] It has been argued that while independence for African states marked an end to physical occupation and political rule, it did not automatically dismantle the structures of colonialism and apartheid;[13] the higher education curricula of the colonial and apartheid eras remain firmly entrenched and the narrative that Africa has little to

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8   LD Mokula 'Decolonising the school curriculum for equity and social justice in South Africa' (2018) 82 *KOERS: Bulletin for Christian Scholarship* 2.

9   Nwanosike & Onyije (n 2) 41 & 45.

10   DS Heleta 'Decolonisation of higher education: Dismantling epistemic violence and Eurocentrism in South Africa' (2016) *Tranformation in Higher Education* https://thejournal.org.za/index.php/thejournal/article/view/9/31 (10 November 2021); GC Spivak 'Can the subaltern speak?' in C Nelson & L Grossberg (eds) *Marxism and the interpretation of culture* (1988) 271 at 281.

11   S Badat 'The challenges of transformation in higher education and training institutions in South Africa' Paper Commissioned by the Development Bank of Southern Africa (2010) 17-18. See also C Soudien 'Report of the Ministerial Committee on Transformation and Social Cohesion and the Elimination of Discrimination in Public Higher Education Institutions' (30 November 2008) Department of Education, Pretoria, South Africa 91-94; S Heleta 'Coloniality persists in our universities and we must urgently decolonise' (2016) *Mail and Guardian* 18 November 2016 https://mg.co.za/article/2016-11-18-00-coloniality-persists-in-our-universities-and-we-must-urgently-decolonise (accessed 29 September 2022).

12   Badat (n 11) 17-18.

13   D Kapoor (ed) *Education, decolonisation and development perspectives from Asia, Africa and the Americas* (2009) 4.

contribute to knowledge creation and conceptualisation persists.[14] As the higher education curricula remain rooted in Eurocentrism, certain categories of students at universities – indigenous black students in particular – remain at a disadvantage.[15] For some commentators this state of affairs is not only out of step with South Africa's constitutional dispensation rooted in the values of equality and dignity, but also renders the knowledge generated by these institutions irrelevant to the current realities with which students have to contend.[16] Not coincidentally, calls for decolonisation of the curricula continue to feature prominently in South Africa's higher education discourse.[17]

Debate on decolonisation has been documented in the literature since the 1960s. The persistent narrative is that knowledge in Africa has been colonised, with scholars such as Mamdani long pleading for the decolonisation of Africa's education systems.[18] These debates are also reflected in various institutions of higher education including the Faculty of Law at the University of Dar-es-salaam during the 1960s[19] and calls for decolonisation of higher education by Kenya dating from the 1970s and 1980s. And these calls are not limited to Law Departments as evidenced

14   FI Adebisi 'Decolonising education in Africa: Implementing the right to education by re-appropriating culture and indigeneity' (2016) 67 *Northern Ireland Legal* 433.

15   Centre for the Study of Violence and Reconciliation 'An analysis of the #FeesMustFall movement at South African universities' (2017) 17-18; JS Gundara 'Issues of discrimination in European education systems' (2000) 36 *Comparative Education* 223-234; J Vasagar 'Black students say they feel left out by "white cliques" at universities' (2011) *The Guardian* 22 May 2011 https://www.theguardian.com/education/2011/may/22/black-students-feel-left-out (accessed 29 September 2022).

16   Council on Higher Education 'The challenges of transformation in higher education and training institutions in South Africa' (2010) 5; N Dladla 'Racism and the marginality of African philosophy in South Africa' (2017) 18 *Phronimon* 204-231 https://upjournals.co.za/index.php/Phronimon/article/download/1966/2247 (accessed 29 September 2022).

17   See, for instance, RM Mampane and others 'Decolonising higher education in Africa: Arriving at a glocal solution' (2018) 38 *South African Journal of Education* 1-9; T Joseph 'Decolonising the curriculum; transforming the university: A discursive perspective' (2017) Durban University of Technology https://www.dut.ac.za/wp-content/uploads/2017/03/T-JOSEPH.pdf (accessed 29 September 2022); N Saurombe 'Decolonising higher education curricula in South Africa: Factoring in archives through public programming initiatives' (2018) 18 *Archival Science* 119-141; L Meda and others 'Decolonising the curriculum at a University of Technology in South Africa' (2019) 3 *The Educational Review* 50-57; L Shawa 'In defence of education that embodies decolonisation' in CH Manthalu & Y Waghid (eds) *Education for decoloniality and decolonisation in Africa* (2019) 89-109; Heleta (n 10).

18   M Mamdani 'University crisis and reform: A reflection on the African experience' (1993) 58 *Review of African Political Economy* 7-19.

19   Chacka Chaka and others 'English studies: Decolonisation, deparochialising knowledge and the null curriculum' (2017) 35 *Perspectives in Education* 213.

most notably in various English Departments which have challenged the nature and scope of prescribed literature of little relevance to the realities of Africa.[20] Similar debates have been seen in Asia, India, and the United States of America.[21] In the South African context, the recent student protests, which began in 2015, have reawakened interest in the debate on the decolonisation of higher education systems. Taking the form of hashtags such as '#FeesMustFall' and '#RhodesMustFall', these protests have seen students, among others, question the relevance of South Africa's university curricula to today's students.[22] Commentators argue that these protests reflect unaddressed issues rooted in the history of colonialism and apartheid in South Africa.[23]

Decolonisation is a significant element in the debate around higher education and universities cannot but engage with the decolonisation of the higher education curricula. In this regard, international human-rights law is a module which would inevitably be subjected to this scrutiny. But what would decolonisation of international human-rights law curricula look like? It is trite that international treaties and instruments are indispensable sources of international human rights law. As Africa prides itself on a uniquely 'African' regional human-rights system geared towards addressing Africa's unique context, can this system constitute a tool for advancing the goal of decolonisation of the international human rights law curricula? And, as the name suggests, 'international human rights law' has an 'international' aspect. What, then, does the Africanisation of the human rights law curricula imply for internationalisation? In other words, are Africanisation and internationalisation compatible?

The aim of this chapter is to address these key questions. To achieve this, the chapter is divided into four sections. The present section is followed by section two which sets out the two key concepts – decolonisation, and Africanisation. Because scholarly debate on the precise meaning of these concepts rages on, the section identifies commonalities in their definitions and engages with the notions of Africanisation and internationalisation. Notably, prominent African scholars such as Kéba Mbaye have long pointed out that 'globalisation, as long as it shows itself incapable of assimilating both the universality of human rights and solidarity, is and will remain unacceptable, even if it is imposed on us by force'.[24] Generally, globalisation affects the sovereignty of nation states. For example, the

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20   Chacka and others (n 19) 212.

21   For a detailed discussion of this reality, see Kapoor (n 13).

22   Centre for the Study of Violence and Reconciliation (n 15).

23   Centre for the Study of Violence and Reconciliation (n 15) 8.

24   Cited in B Boutros-Ghali *The interaction between democracy and development* (2002) 235.

international human rights law framework imposes obligations on African states towards individuals so limiting the extent to which these states can disassociate themselves from international standards. Adhering to these obligations may require certain national ideals to be sacrificed on the altar of international human rights standards. It could be argued that these limitations on sovereignty may in turn pose challenges to Africanisation. Thus if, as Mbaye submits, the universality of human rights needs to be at the center of discussions on globalisation, the question arises whether the Africanisation in the literature is compatible with international human rights law? The third section addresses the overarching issue in this chapter which is how the regional human rights system can be unpacked creatively with a view to advancing the goal of decolonisation. The fourth section draws a conclusion and offers appropriate recommendations.

2   Getting to grips with the notions of decolonisation and Africanisation

The two notions of decolonisation and Africanisation continue to engage scholarly debate. A consensus on their meaning appears unattainable any time soon as commentators have varying views on how decolonisation and Africanisation should be achieved. This section engages with literature and commentaries on these two notions. It shows that the meaning of the concepts remains fragmented which poses challenges as regards their application to higher education decolonisation. Be that as it may, the section shows that certain salient points can be identified and could form a basis for decolonisation of higher education, including modules such as international human rights law. The section also engages with the notion of Africanisation by assessing whether an Africanised human rights law curriculum would be compatible with international law. The discussion further sets the tone for the next section which assesses whether Africa's regional human rights instruments can be unpacked creatively with a view to advancing the goal of decolonising international human rights law.

2.1   Decolonisation

The starting point in advancing decolonisation of higher education is understanding the term 'decolonisation' after which the term will be effectively applied to higher education. This is crucial because calls for decolonisation of higher education generally draw on the literature of decolonisation in general to make a case for decolonisation of higher education. Ndlovu-Gatsheni, for example, submits that since the essence of colonial education was psychological violence, desocialisation, distortion of consciousness and culture, and alienation of the colonised population,

decolonisation of education will entail dismantling this essence.[25] In his analysis, he draws on the work of Ngugi wa Thiong'o and Frantz Fanon, both of whom are decolonisation scholars, to make a case for a higher education that is relevant to Africa.[26] Against this backdrop, this section unpacks the term 'decolonisation' more generally.

There is no single dimension to the term 'decolonisation'. The literature remains fragmented, making it an uphill battle accurately to categorise the various schools of thought on decolonisation. What can be garnered, however, is that most commentators fall in one of the following two camps – the fundamentalist approach, or the restrained approach. The terms 'fundamentalist' and 'restrained' are coined by the author to distinguish between the two approaches. The former category of commentators accords a radical meaning to the notion of decolonisation, that is, an approach which involves dismantling the entire system of education. The latter category, on the other hand, adopts a middle ground, that is, one which eschews the dismantling of the entire education system. The fundamentalists anchor their definition of decolonisation in the history of colonisation. Their point of departure is that the history of subjugation of the black race needs to be acknowledged.[27] Once this history is acknowledged, a fundamental shift is required to address the past injustice of this history.[28] This shift requires, among others, adoption of African perspectives of the notion of knowledge.[29] Cognisance is also to be taken of indigenous knowledge in the higher education curricula. Commentators, for example, contend that since colonisation stripped African people of their power, self-respect, dignity, and freedom, and excluded African knowledge from the discourse of education and knowledge creation. A key feature of decolonisation should be dismantling the Eurocentric approaches on the one hand, and reclaiming an African

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25 SJ Ndlovu-Gatsheni 'Meanings and implications of decolonization for higher education in South Africa' https://www.saqa.org.za/docs/pres/2018/DecolonizationkeyUnisa.pdf (accessed 29 September 2022). See also Ngugi wa Thiong'o *Decolonising the mind: The politics of language in African literature* (1986) 28.

26 As above.

27 KG Fomunyam & D Teferra 'Curriculum responsiveness within the context of decolonisation in South African higher education' (2017) 35 *Perspectives in Education* 201; T Letsekha 'Revisiting the debate on the Africanisation of higher education: An appeal for a conceptual shift' (2013) 8 *Independent Journal of Teaching and Learning* 1-13.

28 As above.

29 KG Fomunyam 'Decolonising the engineering curriculum in a South African University of Technology' (2017) 12 *International Journal of Applied Engineering Research* 6798.

history whose structures were and continue to be subjugated, on the other.[30] It is contended that South Africa's higher education system is dominated by Eurocentric structures.[31] For the fundamentalists, this set-up constitutes a monument to colonialism and apartheid, and is a constant reminder for those marginalised during these eras that freedom is far from being attained.[32] In Spivak's view, colonialism constitutes a targeted attack on the indigenous practices, including their knowledge.[33] It is in this light that commentators take the view that the higher education curricula fall short of addressing the needs of black students who, though technically 'free' of the colonial and apartheid regimes, continue to suffer the brunt of the structures left behind by these regimes.[34] Because these structures were not specifically developed to address the unique realities of Africa, the entire higher education system fails to address African reality. This renders the relevance of current curricula questionable in the African context.

Against the above backdrop, the fundamentalists view decolonisation as a total dismantling of existing Eurocentric higher education structures;[35] structures crafted to advance colonialism and apartheid and therefore entirely irrelevant in according meaning to knowledge relevant to Africa and its scholars.[36] When questioned as to what a decolonised education will entail, a student at the University of Cape Town noted that 'for decolonised education to be introduced, the existing system must be overthrown'.[37] Various commentators also consider such a fundamental shift the only way to give meaning to decolonisation. Moulder, for example, suggests fundamental changes to the composition of students, academic and administrative bodies, syllabi, curricula, and criteria for what constitutes excellence in research.[38] Dei, for his part, submits that decolonisation

30   CA Hoppers 'Indigenous knowledge systems and academic institutions in South Africa' (2001) 19 *Perspectives in Education* 74.

31   Soudien Report (n 11) 100.

32   M Makhubela '"Decolonise, don't diversify": Discounting diversity in the South African academe as a tool for ideological pacification' (2018) 22 *Education as Change* 2.

33   Spivak (n 10) 280-281.

34   Centre for the Study of Violence and Reconciliation (n 15) 17-18.

35   Fomunyam & Teferra (n 27); Letsekha (n 27).

36   P Prinsloo 'Some reflections on the Africanisation of higher education curricula: A South African case study' (2010) 40 *Africanus* 24; Council for Higher Education 'Decolonising the curriculum: Stimulating debate' (2017) 3; Letsekha (n 27) 1.

37   Cited in B Wingfield 'What "decolonised education" should and shouldn't mean' (2017) *The Conversation* 14 February 2017 https://theconversation.com/what-decolonised-education-should-and-shouldnt-mean-72597 (accessed 29 September 2022).

38   J Moulder 'Universities and "Africanisation"' (1995) 9 *South African Journal of Higher Education* 7-8.

ought to be understood, among others, as an opportunity to challenge, delink, confront, and rethink colonial ideologies on what constitutes knowledge.[39] This, to them, might require unpacking the colonial system which was characterised by white supremacy and a lack of regard for indigenous knowledge. In the words of Makhubela, fundamental shifts from the colonial past demand 'a refusal to participate in the structures of subjugation'.[40] Considered together, fundamentalists are clear that subtle approaches such as inclusion cannot be used to achieve decolonisation. Rather, emphasis must be placed on a fundamental shift in structures, systems, and mindset. Smith, for example, spells out the process of this shift in stages:[41] deconstruction; reconstruction; reevaluation; and re-contestation of knowledge in the African context.[42]

Fundamentalists further contend that decolonisation of the higher education curricula cannot stop with the dismantling of existing colonial structures and systems; it must extend to the establishment of structures and systems that draw on the context and values of Africa. In the words of Smith, it signifies 'a social and political process aimed at undoing the multifaceted impacts of the colonial project and re-establishing strong contemporary indigenous nations and institutions based on traditional values, philosophies and knowledge'.[43] Wa Thiong'o, a proponent of decolonisation, is of the view that 'a sound educational policy is one which enables students to study the culture and environment of their own society first, then in relation to the culture and environment of other societies'.[44] What can be gleaned from the views of these commentators is that the circle of decolonisation only becomes complete once structures which acknowledge African values are in place. It has been suggested that a useful starting point to ensuring this is to draw on African indigenous knowledge. This is crucial in that indigenous approaches to knowledge have previously been dehumanised and demonised. Commentators contend that higher education continues to advance the narrative that Africa lacks the means to determine and generate knowledge.[45] Decolonisation would, therefore, mean that previously demonised indigenous knowledge must be revisited and accorded due weight. Commentators are of the view

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39 G Dei 'Rethinking the role of indigenous knowledges in the academy' (2000) 4 *International Journal of Inclusive Education* 113.

40 Makhubela (n 32) 17.

41 See generally L Smith *Decolonising methodologies: Research and indigenous peoples* (1999) 1-208.

42 As above.

43 Smith (n 41) 19.

44 Wa Thiong'o (n 25) 97.

45 Heleta (n 10).

that indigenous knowledge and practices can offer unique and valuable solutions to contemporary challenges.[46] Therefore, decolonisation projects need to ensure that this knowledge resurfaces in its authentic and undistorted form. This is not to be limited to curricula but also, other structures and systems in higher education settings including language policies and research.[47]

The restrained approach adopts a somewhat less radical approach to the notion of decolonisation. It would be misleading to categorise commentators as falling strictly within the ambit of the restrained approach. However, a detailed reading of the arguments they advance could lead to a reasonable conclusion that their viewpoints are firmly anchored in the restrained approach. Wingfield, for example, considers radical narratives such as a complete overthrow of all Eurocentric knowledge systems extremely problematic and in fact dangerous.[48] In her view, instead of vouching for a dismantling of current higher education systems and structures, the notion of decolonisation should be understood as drawing and building on 'the best skills, values, beliefs and habits from around the world'.[49] She sees this as entailing being receptive to values and approaches regardless of their origin, whether African or European. The author draws on the field of science to contend that 'good science transcends geography', thus, to limit knowledge to African indigenous knowledge and practices would be to deprive Africa's higher education systems of knowledge that are relevant to Africa and Africa's context.[50]

From perspectives such as Wingfield's, it would appear that the restrained approach to the notion of decolonisation proceeds from the premise that balance is key and decolonisation ought not be conceptualised so narrowly that it excludes relevant knowledge systems. This, in commentators' views, is particularly crucial because it may prove impractical, if not virtually impossible, to entirely replace the current education system with indigenous knowledge and systems.[51] This view

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46   HO Kaya & N Seleti 'African indigenous knowledge systems and relevance of higher education in South Africa' (2013) 12 *International Education Journal: Comparative Perspectives* 30-44; MW Maila & CP Loubser 'Emancipatory indigenous knowledge systems: Implications for environmental education in South Africa' (2003) 23 *South African Journal of Education* 276-280. A Breidlid 'Culture, indigenous knowledge systems and sustainable development: A critical view of education in an African context' (2009) 29 *International Journal of Educational Development* 140-148.

47   Ndlovu-Gatsheni (n 25).

48   Wingfield (n 37).

49   As above.

50   As above.

51   P Naude 'Decolonising knowledge: In what sense is an "African" ethic possible?' (2017)

appears to resonate with the view of scholars such as Nyamnjoh who warn adherents of decolonisation of the risk of throwing out the bathwater of colonialism with the baby of knowledge relevant to the African context.[52] The perspectives of student protesters during the student protests would also appear to buttress this view with some students noting that in seeking decolonisation of higher education, all that students are seeking is the 'recognition, appreciation and contextual relevance that they and their African cultures and African identities deserve'.[53]

Suffice it to reiterate that commentaries on the notion 'decolonisation' are multiple and remain fragmented. It is not feasible to include all of them here in that these debates, as already alluded to, date back to the 1960s.[54] It can, however, be gleaned from the brief discussion in this section that there appears to be a divergence as to the meaning of decolonisation and how it should be advanced. Despite this divergence, some issues appear cross-cutting, notable among these being the need for higher education systems to address the context and unique realities of the African continent. Precisely put, context and recognition of African cultures and identities remain crucial in debates on decolonisation. However, the point of departure for both schools of thought is how to achieve decolonisation.

2.2   Africanisation

An-Naim[55] and Mutua[56] submit that without the inclusion of African perspectives in higher education systems, the mosaic of the higher education curricula remains incomplete. It is in this light that the term 'Africanisation' was coined – to underscore the need to accord due weight to African perspectives in so far as knowledge construction is concerned.

Inaugural address April 2017, 1-24 https://scholar.sun.ac.za/handle/10019.1/101556 (accessed 29 September 2022).

52   F Nyamnjoh *#RhodesMustFall: Nibbling at resilient colonialism in South Africa* (2016) 236.

53   D Taghavi *Exploring fallism: Student protests and the decolonisation of education in South Africa* (2017) 60.

54   Some examples include Ngugi wa Thiong'o (n 25); BM Perinbam 'Fanon and the revolutionary peasantry: The Algerian case' (1973) 11 *Journal of Modern African Studies* 427-445, F Fanon *A dying colonialism* (1994). See also more recent work on decolonisation including JJ Serato and others *Decolonising education in the Global South: Historical and comparative international perspectives* (2020); K Horsthemke & P Enslin 'African philosophy of education: The price of unchallengeability' (2008) 28 *Studies in Philosophy of Education* 209-222; PJ Hountondji 'Knowledge of Africa, knowledge by Africans: Two perspectives on African studies' (2009) 1 *RCCS Annual Review* 1-11.

55   A An-Na'im 'Problems of universal cultural legitimacy for human rights' in A An-Na'im & F Deng (eds) *Human rights in Africa: Cross-cultural perspectives* (1990) 339.

56   M Wa Mutua 'The Banjul Charter and the African cultural fingerprint: An evaluation of the language of duties' (1994) 35 *Virginia Journal of International Law* 344.

The meaning of the term 'Africanisation', however, remains hotly debated. Makgoba, defines it as 'a learning process and a way of life for Africans'.[57] Thus, in so far as the higher education system is concerned, Africanisation, in Makgoba's view, involves 'incorporating and integrating other cultures into and through African views to provide dynamism, evolution and flexibility so essential in the global village'.[58] Ramose's view is similar where he states that when mention is made of the notion Africanisation, 'the African experience' should be the central, if not the only, foundation and source of knowledge.[59] For Ramose, Africanisation encompasses the right to be African and this must trickle down to knowledge systems. Ramose's point of view appears to resonate with that of other scholars including Blyden who envisages a higher education system with a distinct 'African personality'.[60]

Notions such as 'African education',[61] 'African world view',[62] 'African identity' and the 'right to be African'[63] have featured in the literature of commentators in their attempt to give meaningful content to the notion 'Africanisation'. However, these could be misleading and may, in fact, not be desirable in so far as decolonisation of the international human rights law curricula is concerned. Horsthemke, for instance, notes that these notions suggest a deceptive sense of belonging.[64] Recourse to them in conceptualising Africanisation would appear to advance the view that there is a single African culture and identity. This, of course, is problematic because even within Africa there is a plurality of cultures and identities. As Mamdani aptly puts it, 'there is no part of Africa that is the same as anywhere else because every part has its specificity'.[65] Therefore, to rely on notions such as 'African personality' is not only questionable on grounds of diversity, it also fails to acknowledge the fact that cultures and identities are dynamic. Commentators also worry that conceptualising

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57   M Makgoba Mokoko *The Makgoba affair - A reflection on transformation* (1997) 199.

58   As above.

59   MB Ramose 'Foreword' in S Seepe (ed) *Black perspectives on tertiary institutional transformation* (1998).

60   E Blyden as cited in MY Frenkel 'Edward Blyden and the concept of African personality' (1974) 73 *African Affairs* 277-289.

61   JM Mwinzi 'Towards the Africanisation of teacher education: A critical reflection' (2016) 4 *International Journal of Education and Research* 384.

62   Mwinzi (n 61) 378.

63   K Horsthemke 'The South African higher education transformation debate: Culture, identity and "African ways of knowing"' (2009) 7 *London Review of Education* 3-15.

64   K Horsthemke 'Indigenous knowledge - Conceptions and misconceptions' (2004) 32 *Journal of Education* 31-48.

65   M Mamdani 'African Renaissance and international relations' in MW Makgoba (ed) *African renaissance* (2007) 132.

Africanisation in so simplistic a manner risks pitting African perspectives against all other relevant perspectives of knowledge.[66] Moreover, insisting that African knowledge systems should be the only source and foundation of knowledge could undermine other relevant knowledge systems, a narrative that not only contradicts the notion of diversity, but is also at odds with notions of equality and dignity in which the decolonisation agenda is clothed.

Other commentators, however, view Africanisation from a pluralist point of view in preference to focusing on a single knowledge system to the exclusion of all others. In this regard, Mwinzi describes Africanisation as 'the education reform which involves an endeavor of integrating cultural factors as a form of epistemic start into the formal pedagogy'.[67] To Mwinzi, since African indigenous knowledge was previously excluded from the body of knowledge, the inclusion of African indigenous knowledge in itself constitutes Africanisation. This inclusion does not necessarily require that existing systems be dismantled. Thus, recourse to African indigenous knowledge inevitably constitutes a point of departure in debates on the Africanisation of higher education. In this regard, Le Grange reminds us that 'the inclusion of indigenous knowledge in South African curriculum policy statements is a positive step and could provide opportunities for debate on interaction(s) between western and indigenous world views'.[68] The crux of the matter for the commentators above, therefore, is that Africanisation should emphasise the upholding of indigenous knowledge systems and ensuring that education relates to the societal needs and experiences of people in Africa while at the same time acknowledging other knowledge systems as a basis for useful interaction. This point of view is well captured in the words of Louw who states that 'although knowledge should be contextual, it shouldn't be context-bound'.[69] Put differently, although formerly devalued, indigenous knowledge should be resuscitated, but that such centrality 'should not negate other realities that enrich the human corpus of knowledge'.[70] Moreover, in making

66   Wingfield (n 37).

67   Mwinzi (n 61) 178.

68   L Le Grange 'Integrating western and indigenous knowledge systems: The basis for effective science education in South Africa' (2007) 53 *International Review of Education* 581.

69   W Louw 'Africanisation: A rich environment for active learning on a global platform' (2010) 32 *Progressio* 48.

70   M Nkomo 'Educational research in the African development context: The crisis of education in Africa,' in P Higgs, NCG Vakalisa, TV Mda and NT Assie-Lumumba (eds) *African voices in education*, 2000, 47-62, cited in K Horsthemke 'Knowledge, education and the limits of Africanisation' (2004) 38 *Journal of Philosophy of Education* 581.

African realties central, commentators like Louw and Nkomo argue that cognisance should be taken of the fact that this knowledge can be subject to change and contestation; without this higher education systems risk applying outdated indigenous systems, some of which constitute an affront to the democratic values of equality and dignity.[71]

Considered together, the literature selected and commentaries surveyed on the notion of Africanisation lead to two reasonable schools of thought as to the meaning of this notion. The first is that Africanisation connotes recourse to African indigenous perspectives and systems as the sole sources and foundation of knowledge to the exclusion of all other systems.[72] The second steers clear of polarisation and adopts a view that gives due regard to African perspectives while acknowledging other systems relevant in the context of Africa and its realities.[73]

The approach in this chapter leans towards the latter school of thought in that international human rights law has an international dimension which means that even after centrality is given to African perspectives, understanding international human rights law, as the title of the module 'International human rights law' suggests, would demand that recourse be had to other human rights systems. The issue that falls to be resolved is whether Africanisation would be in accord with the international element of this subject. Conversely, will increasing the emphasis on Africa's perspectives on human rights law be compatible with internationalisation?

Internationalisation has become a major feature in higher education. This is inevitable given the growing interconnection and interdependence across continents and regions. Internationalisation generally connotes efforts and targeted steps geared towards ensuring that institutions of higher learning respond effectively to the global village in which we find ourselves.[74] Dzvimbo and Moloi submit that effective internationalisation in higher education reduces international barriers and ensures that systems and structures of a higher education institution are globally competitive.[75] As consistently noted, there is strong impetus to accord due weight to African perspectives in higher education. But is Africanisation compatible with internationalisation? It can be contended that Africanisation stands to undermine African higher education's competitive global edge in that

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71   As above; Louw (n 69).

72   See Hoppers (n 30) 74.

73   See Nkomo (n 70) and Louw (n 69).

74   KP Dzvimbo & KC Moloi 'Globalisation and the internationalisation of higher education in Sub-Saharan Africa' (2013) 33 *South African Journal of Education* 4.

75   As above.

its focus on the African context risks losing sight of realities beyond the African context. The assumption, therefore, is that Africanisation and internationalisation cannot be mutually inclusive as invoking one necessarily requires forsaking the other. This is, however, subject to rebuttal. Notably, if Africanisation in fact entails, among other things, giving meaning and centrality to African perspectives, this does no more than allow Africa an opportunity to offer insights into and take an active part in issues, including human rights, at the global level. This is especially important in light of the historical narrative that Africa has nothing to offer the world in terms of knowledge. Neale-Shutte and Fourie rightly submit in this regard that

> [i]n order to be participants in internationalisation, African universities need to create their own identities and develop their own fortes; in other words, if you do not know who you are then you do not have much to offer your international counterpart. It is only when we have a deep understanding of our experiences that we are able to conquer knowledge and concepts that are not part of that experience.[76]

One could, however, ask whether the Africanisation of human rights law will upset the notion of international human rights law? Suffice it to note that arguments have consistently been advanced that the conventional understanding of human rights does not effectively reflect the history and realties of all societies across all continents.[77] It has been submitted that the notion of human rights as we know it today draws inspiration from the 1948 Universal Declaration of Human Rights (Universal Declaration) drafted by the United Nations. The Universal Declaration was an attempt to create a code, hence the notion of the universality of human rights.[78] It is, however, trite that a consensus on the universality of human rights as entrenched by the Universal Declaration was conceived in an era when some, if not most, African states were under colonial rule. It follows logically that their voices hardly surfaced in these deliberations as they lacked international recognition. It is against this backdrop that certain commentators have taken the view that 'human rights are based on an at least complicit acceptance of western norms of individuality, responsibility and sociality – norms fusing the aspirant and the actual

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76   M Neale-Shutte & J Fourie 'Challenges to internationalisation in African higher education' (2006) 20 *South African Journal of Higher Education* 121.

77   See JAM Cobbah 'African values and the human rights debate: An African perspective' (1987) 9 *Human Rights Quarterly* 309-331.

78   As above.

and in turn assuming a transcendent elevation exemplifying the negative universal reference'.[79]

In similar vein, commentators such as Coomaraswamy have long vouched for 'a Third World view of human rights' which acknowledges the history of subjugation and colonisation.[80] The issue then arises – could the notion of Africanisation be a means of advancing the foregoing cause, and in fact, in consonance with international human rights law? Letsekha rightly submits that one cannot speak of international law without speaking of national and regional perspectives.[81] He adds that 'without the local, there would be nothing to offer the other and so a strong local culture would enhance the value of internationalisation'.[82] Juxtaposing this approach to international human rights law, without national and regional perspectives on human rights, the purposes of international human rights law remain illusory. This is because international law is informed by practice at the national and regional levels. It is in this light that this section concludes that Africanisation properly conceptualised has great potential to enrich international human rights law. But if decolonisation and Africanisation are indeed crucial, how would this process play out in international human rights law? The next section engages with this issue by drawing on Africa's human rights system.

3   Unpacking selected African human rights instruments to concretise the decolonisation narrative in international human rights law curricula

Despite calls for decolonisation, higher education systems have very few guidelines on how to implement this notion in concrete terms. It is against this backdrop that this section shows how recourse to selected regional human rights instruments could constitute one of the entry points via which to decolonise and ultimately Africanise international human rights law curricula. Emphasis is placed on treaties as they are a primary source in the teaching and learning of an international human rights law module/ course. It follows, therefore, that if these treaties contain provisions that ensure account is taken of the African context, then they can be relied

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79   P Fitzpatrick 'The revolutionary past: Decolonising law and human rights' (2014) 2 *International Studies in Phenomenology and Philosophy* 125.

80   R Coomaraswamy 'A Third World view of human rights' (1982) *UNESCO Cour.* 35(8) Aug-Sep 1982, 49-52.

81   Letsekha (n 27) 6.

82   As above. See also M Botha 'Africanising the curriculum: An exploratory study' (2007) 21 *South African Journal of Higher Education* 208.

upon to decolonise the international human rights law curriculum. More clearly stated: taking the African context into account is critical in the decolonisation of the higher education curriculum and fortunately, the international human rights law module relies heavily on the African human rights framework as a source of law and instruction. Accordingly, the fact that the African human rights framework, in many respects, takes the context of Africa into account provides a good entry point for the decolonisation of the international human rights law curriculum. To understand how decolonisation would play out in such a module it is crucial to understand what the term 'curriculum' means. To this end, the notions of curriculum and curriculum responsiveness are briefly addressed.

3.1   The meaning of curricula and curriculum responsiveness

Multiple definitions exist of the meaning of the term curriculum. Some commentators view it as the subject matter or content of what is studied and learned by students.[83] In so far as content is concerned, Le Grange views a curriculum as knowledge that is included or excluded in the courses offered in higher education systems.[84] In Grumet's view, one of the issues to look out for in curriculum inclusivity is an assessment of the narratives offered to students regarding their past, present, and future.[85] Others, however, look further than actual content to include learning outcomes or what a student is expected to take away from the teaching and learning process on completion of a specific course. If what is taken away from the teaching and learning process fails to reflect the experiences and realities of the student, the curriculum is flawed.[86] Curriculum responsiveness, therefore, is the ability of the curriculum to address students' lived realities.

Fomunyam submits that for a curriculum to be considered responsive, it must reflect the diverse lived realities of the students.[87] Ogude and others bring the point closer to home and emphasise that responsiveness should entail 'approaches to the design of curricula, instructional strategies, methods of assessment, and approaches to student support that take the

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83   P Phenix 'The disciplines as curriculum content' in AH Passow (ed) *Curriculum crossroads* (1962) 227-245; WF Pinar *What is curriculum theory?* (2012).

84   Le Grange (n 68) 1-11.

85   MR Grumet 'Restitution and reconstruction of educational experience: An autobiographical method for curriculum theory' in M Lawn & L Barton (eds) *Rethinking curriculum studies: A radical approach* (1981) 115-130.

86   Letsekha (n 27) 4.

87   KG Fomunyam 'Decolonising the Engineering curriculum in a South African University of Technology' (2017) 12 *International Journal of Applied Engineering Research*, 6797-6805.

characteristics and context of target student groups seriously'.[88] Overall,
cutting across the views of commentators on the meaning of curriculum
and its responsiveness, is the element of content taught and the ability for
a student to translate what is taught in addressing his/her unique context
and realties. The question then becomes whether the African regional
human rights system has features that can be unpacked to address the
unique realties of Africa? If the answer is 'yes', one must then ask whether
unpacking and assigning meaning to these features could constitute a
means by which to advance the goal of decolonisation of international
human rights law.

3.2 Selected regional human rights treaties and the decolonisation of international human rights law

The discussion thus far has emphasised, amongst others, that context and
a need to have higher education reflect and respond to the unique realities
of Africa, remain crucial in achieving a decolonised higher education
system. These African realties are highlighted during the discussion of
the various instruments. It goes without saying that international treaties
constitute major sources of law in several fields, including international
human rights law.[89] It follows logically that if the content of a treaty
accords due weight to African realties, it constitutes a tool to be wielded
creatively to advance the goal of decolonising international human
rights law curricula. Notable among the regional human rights treaties
adopted to address the unique realties of Africa are the African Charter
on Human and Peoples' Rights (African Charter), the African Charter
on the Rights and Welfare of the Child (African Children's Charter), the
OAU Convention Governing the Specific Aspects of Refugee Problems
in Africa (African Refugee Convention), and the Protocol to the African
Charter on Human and Peoples' Rights on the Rights of Women in Africa
(Maputo Protocol). It is not feasible to discuss all the provisions in these
instruments. Consequently, to support the view that these instruments are
entry points to the decolonisation of the human rights law curricula, only
selected provisions are highlighted.

The African Children's Charter was adopted in 1990. The history
surrounding its adoption confirms that it was geared at addressing the
unique realities of children in Africa. Suffice it to note that when the
African Children's Charter was adopted, the Convention on the Rights

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88   N Ogude and others *The challenge of curriculum responsiveness in South African higher education* (2005) 13.

89   In terms of art 38(1) of the Statute of the International Court of Justice 1946, treaties are considered a primary source of international law.

of the Children (CRC) was about to come into force. Thus, the adoption of the African Children's Charter was a deliberate decision on the part of members of the OAU. The argument has been advanced that African states were hardly represented in deliberations leading to the adoption of the CRC, with Egypt, Senegal, Morocco, and Algeria being the only African states involved.[90] With so limited a representation, OAU member states felt that the views of African states on issues of children were not adequately addressed. It is in this light that these states decided to adopt an instrument to address the unique realties of Africa. Commentators have also weighed in on the minimal representation of African views in the adoption of the CRC, observing, amongst others, that African states were sidelined in the CRC drafting process which left a gap that warranted redress through another Charter unique to the African context.[91] The Preamble to the African Children's Charter ably confirms this view and provides, amongst others, that:

> [T]he situation of most African children, remains critical due to the unique factors of their socio-economic, cultural, traditional and developmental circumstances, natural disasters, armed conflicts, exploitation and hunger, and on account of the child's physical and mental immaturity he/she needs special safeguards and care.[92]

A perusal of the African Children's Charter indeed reveals that a number of provisions were adopted specifically to address Africa's realties. Notable among these is the provision on child marriages. Child marriages remain a common phenomenon in Africa, with girl-children being on the extreme end of the vulnerability continuum.[93] The African Children's Charter explicitly prohibits this practice. It specifies that children under the age of eighteen may not marry.[94] The African Children's Charter also affords unique protection to children in situations of armed conflict. Conflict remains a major feature in Africa, with children suffering the brunt of this reality through their involvement as child soldiers.[95] Cognisant of this

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90   S Harris-Short 'Listening to "the other"? The Convention on the Rights of the Child' (2001) 2 *Melbourne Journal of International Law* 1-47.

91   As above. See also M Gose *The African Charter on the Rights and Welfare of the Child* (2002) 1-141.

92   Preamble to the African Charter on the Rights and Welfare of the Child 1990 (ACRWC).

93   On the prevalence of this practice, see M Addaney & A Onuora-Oguno 'Education as a contrivance to ending child marriage in Africa: Perspectives from Nigeria and Uganda' (2017) *Amsterdam Law Forum* 110-130.

94   ACRWC art 21(1).

95   On magnitude of the problem per country, see Child Soldiers Coalition 'The use of children as soldiers in Africa: A country analysis of child recruitment and participation

reality, the African Children's Charter imposes an obligation on states party to the Charter to ensure that no individual under the age of eighteen may take part in hostilities.[96] The 18-year-old threshold affords broader protection to children when compared to the 15-year-old threshold set by the CRC.[97]

Narrowing the discussion down to the issue of decolonisation, and ultimately Africanisation, a consistent argument across the literature is the need for higher education to respond to the context of Africa and its realties. To breathe life into this goal, human rights frameworks such as the ACRWC are useful. For example, interpreting and applying treaties such as the African Children's Charter in a way that takes account of African realities and context would be in accord with the notion of Africanisation of international human rights law curricula in that these instruments are specific to the African context and realities. Moreover, in interpreting the African Children's Charter, it is likely that recourse will often be had to related international instruments such as the CRC. In referring to the CRC, the children's rights discourse in Africa benefits from comparative good practices in the CRC regime. Moreover, the African Children's Charter, like the CRC, has its fair share of weaknesses and gaps.[98] Referring to other human rights frameworks such as the CRC, remains crucial in ensuring that knowledge of good practices is imparted to students with a view to addressing gaps in Africa-specific instruments such as the African Children's Charter. Overall, it is safe to conclude that the decolonisation of international human rights law as it pertains to children's rights should not necessarily suggest a rejection of other norms such as those entrenched under the CRC. Conversely, it should support the view that instruments specific to Africa should be given the weight they deserve in so far as teaching and learning is concerned.

There are other regional human rights treaties equally worth noting. The African Refugee Convention was enacted in 1969 to address the unique realities of Africa and came into force in 1974. When the African Refugee Convention was enacted, most African countries had just attained

in armed conflict' 1 August 2000 https://reliefweb.int/report/world/use-children-soldiers-africa-country-analysis-child-recruitment-and-participation-armed (accessed 29 September 2022).

96   ACRWC, art 22.

97   Compare art 22 ACRWC with the Convention on the Rights of the Child 1989.

98   For example, fears have been expressed about provisions such as art 20 of the ACRWC on domestic discipline by parents, in particular, the possibility of the provision leading to abuse of children. This, however, remains rebuttable in the sense that the best interests of the child remain of paramount importance. Moreover, in terms of art 21, the Charter explicitly prohibits harmful practices.

independence and were grappling with a number of issues – including the refugee crisis resulting from colonialism.[99] Colonialism saw members of liberation movements and civilian populations crossing borders in Africa to seek refuge.[100] Even after attaining independence, several African states were engulfed by civil war, all of which escalated the refugee crisis in Africa.[101] These factors necessitated the adoption of the African Refugee Convention, despite the 1951 Convention Relating to the Status of Refugees (1951 Refugee Convention) already in force.[102] Of course, the factors that led to the adoption of the African Refugee Convention – including armed conflict – are not unique to the African continent. Be that as it may, the quest for solutions to this problem in the specific context of Africa saw the emergence of a broader definition of the term 'refugee' which at the time, and to this day, responds to the reality of the refugee crisis in Africa. In terms of the African Refugee Convention, a refugee includes:

> Every person who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part of or the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality.[103]

This definition is broader than that offered by the 1951 Refugee Convention.[104] The African Refugee Convention affords protection to a broader category of individuals in line with Africa's realities such as the mass influx of refugees, a common feature in the African context, and was particularly crucial in addressing the ever-increasing refugee problem in Africa.

The Maputo Protocol came into force in 1999, decades after the Convention on Elimination of Discrimination against Women

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99   A Adepoju 'The dimensions of the refugee problem in Africa' (1982) 81 *African Affairs* 21-35.

100   As above.

101   As above.

102   See generally the Preamble to the Convention Governing the Specific Aspects of Refugee Problems in Africa 1969 (African Refugee Convention).

103   African Refugee Convention art 1.

104   Convention Relating to the Status of Refugees 1951 (Refugee Convention) art 1(A)(2) defines a refugee as: '[A person who] owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.'

(CEDAW). There is no doubt that the Maputo Protocol was intended to address the unique nature of women's rights in the context of Africa. The Protocol broadens the protection of women by addressing multiple issues of concern to women in Africa, many of which are not addressed by the CEDAW. Notable among these is the prohibition on female genital mutilation, a practice unique to Africa.[105] Furthermore, polygamy remains a common feature in many African marriages[106] and the rights of women are often severely undermined by the practice.[107] Cognisant of this reality, the Maputo Protocol encourages monogamous marriages.[108] The wording of the Protocol, however, is sensitive to the African reality of polygamous marriage and steers clear of prohibiting polygamy. Rather, having preferred monogamous marriages, the Protocol underscores the obligation of states to ensure that the rights of women in polygamous marriages are promoted and protected.[109] In addition, in most of Africa's armed conflicts girls are major victims forced to act as wives or sex slaves to the combatants,[110] and to take on domestic chores such as washing and cooking.[111] Alive to this reality, the Maputo Protocol makes the protection of the girl-child explicit by mandating states to 'take all necessary measures to ensure that no child, especially girls under 18 years of age, take a direct part in hostilities and that no child is recruited as a soldier'.[112]

A perusal of the African Charter also reveals that African realities and values have informed its content profoundly. The Charter entrenches third generation rights – for instance, solidarity – all of which are peculiar to the African perspective.[113] In addition, the notions of family and community in Africa generally raise issues of individual responsibility.[114] To breathe

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105   Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol) art 5.

106   On this reality, see Y Hayase & K Liaw 'Factors on polygamy in Sub-Saharan Africa: Finding based on the demographic and health surveys' (1997) *The developing economies* 293-327; M Baloyi 'Critical reflections on polygamy in the African Christian context' (2013) 41 *Missionalia* 164-181

107   Z Hammadi 'Negative consequences of polygamy' (2015) https://www.linkedin.com/pulse/negative-consequences-polygamy-zainab-al-hammadi (accessed 29 September 2022).

108   Maputo Protocol art 6.

109   As above.

110   On this reality see A Leibig 'Girl child soldiers in Northern Uganda: Do current legal frameworks offer sufficient protection?' (2005) 3 *Northwestern University Journal of International Human Rights* 1-17.

111   As above.

112   Maputo Protocol art 11.

113   See generally arts 1-29 for the range of rights guaranteed under the African Charter.

114   See generally T Nhlapo 'Customary law in post-apartheid South Africa: The vexed

life to these values, the African Charter entrenches duties on the part of individuals and groups, making the Charter the only international instrument to make such provision.[115] Examples on the uniqueness of the African Charter are, indeed, myriad. Taken together, however, the normative framework of African human rights instruments is innovative and instructive in many respects and departs substantially from other regional and international human rights instruments. The human rights instruments on the African regional level, to a large extent, speak to the realities of Africa and its context.

Narrowing the discussion down to the overarching issue of the decolonisation of higher education; if the notions of decolonisation, and ultimately Africanisation, underscore the need to accord due regard to African realities and context, it is clear that these instruments constitute useful entry points via which to advance this cause. At the risk of repetition, the contention of student protesters during the #FeesMustFall protests is worth reiterating. In one of the narratives, the argument was that all learners seek is the 'recognition, appreciation and contextual relevance that they and their African cultures and African identities deserve'.[116] If this is one of the positions, giving due weight to the African regional human rights system suffices as a means by which to decolonise the international human rights law curriculum.

4   Conclusion

Decolonisation has become a buzz word in higher education, but there is little clarity on how it should be advanced. This chapter set out to assess whether Africa's human rights framework can be relied on to advance the goal of decolonisation and ultimately the Africanisation of international human rights law curricula. It is not possible to achieve this goal without apportioning meaning to the two notions of decolonisation and Africanisation. The article surveyed selected literature and commentary on these two notions only to conclude that the debate continues. There is, however, a feature that cuts across all debate – the need to accord due weight to the context and realities of Africa if decolonisation of higher education is to be achieved. Proceeding from the premise that decolonisation entails, amongst others, due regard to African realities and context, selected provisions of African regional human rights instruments

question of cultural diversity, women's rights, "living law", and appropriate law reform' (2014) 1-35, https://silo.tips/download/customary-law-in-post-apartheid-south-africa-the-vexed-question-of-cultural-dive (accessed 29 September 2022).

115   See generally arts 1-29 for the range of rights guaranteed under the African Charter.

116   Taghavi (n 53).

were examined. This led to the conclusion that the instruments considered offer useful entry-points via which to advance the goal of decolonisation and Africanisation of the international human rights law curriculum. It has, therefore, been shown that the road to a decolonised higher education system involves taking creative and targeted steps on the basis of extant African structures and systems without necessarily suggesting the exclusion of other knowledge systems. If anything, other knowledge systems help to accentuate the uniqueness in Africa's knowledge systems and where Africa's knowledge systems are lacking, the other knowledge systems complement and fill gaps.