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## Disrupting Business as Usual: Considering Teaching Methods in Business Law Classrooms

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Jimmy Peterson



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Jeffery Hewitt\*  
Shanthi E. Senthe\*\*

Disrupting Business as Usual:  
Considering Teaching Methods  
in Business Law Classrooms

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*The Truth and Reconciliation Commission of Canada (TRC)'s Calls to Action propose significant changes to legal education. No law school classroom is exempt, including business law courses. We are two of a growing number of scholars in the legal academy actively incorporating Indigenous laws, critical race theory and socio-economic perspectives into business law courses as part of our responses to the TRC.*

*This paper explores a field school we developed at Windsor Law as a response to the Calls to Action. In a temporary fusion of two courses, Secured Transactions along with Indigenous Peoples, Art & Human Rights, a synergy emerges through "collateralization" and "valuation." Our methodology of combining courses and students with diverging interests was designed to evoke reflections on the intersections of Indigenous law and commercial law in legal education. In closing we offer five ways in which business law classrooms might respond to the TRC recommendations.*

*Les Appels à l'action de la Commission de vérité et réconciliation du Canada (CVR) proposent des changements importants à l'enseignement du droit. Aucun cours de droit n'est exempté, y compris les cours de droit commercial des sociétés. Nous sommes deux parmi un nombre croissant d'universitaires en droit qui incorporent activement le droit autochtone, les théories raciales et les perspectives socio-économiques dans les cours de droit des affaires dans le cadre de nos réponses à la CVR.*

*Cet article décrit une école de terrain que nous avons développée à Windsor Law en réponse aux Appels à l'action. Grâce à une fusion temporaire de deux cours, Transactions sécurisées et Peuples autochtones, arts et droits humains, une synergie émerge à travers la « collatéralisation » et la « valorisation .» Cette méthodologie qui consiste à combiner des cours et des étudiants aux intérêts divergents vise à susciter des réflexions sur les intersections du droit autochtone et du droit commercial dans l'enseignement du droit. En terminant, nous proposons cinq façons dont les cours de droit des affaires peuvent répondre aux recommandations de la CVR.*

\* When we began this project, I was an Assistant Professor, University of Windsor, Faculty of Law—now at the time of publishing at Osgoode Hall Law School, York University. I am grateful for the support of Windsor Law and the opportunity to co-write this paper with Shanthi Senthe, in our ongoing collaborations for decolonizing business law classes, and for her collegiality and friendship. Without her this paper would not be possible. I am also appreciative of the academic generosity of Kim Brooks who through her patience and support helped bring this paper into being along with the anonymous peer reviewers for their comments. I am thankful for the time and work of the curators at the DIA such as Barbara Heller who, in spite of beginning our day with a fire alarm, managed to lead us through the relationship of the DIA to Detroit's bankruptcy proceedings. I further acknowledge with thanks, the research assistance of Zenia Sethna. Finally, we are both grateful for Dean Chris Waters' support of (and attendance at), our DIA field school.

\*\* Assistant Professor, University of Windsor, Faculty of Law. I would like to express my gratitude to Jeffery Hewitt, who suggested that we embark on this journey to decolonize the corporate-commercial curriculum, and I am also grateful for his intellectual encouragement and friendship during this co-writing process. I would like to thank Kim Brooks for the opportunity to present our work at the Purdy Crawford Emerging Business Law Scholars Workshop, held on 19–20 October 2018 at the Schulich School of Law, Dalhousie University. I echo Jeffery's sentiments in offering thanks to the education and learning resources staff and curators at the DIA for this wonderful interactive collaborative experience. I am also grateful for Ruby Dhand's thoughtful comments and suggestions on my efforts in articulating the idea for this paper. Finally, I would like to thank Mula Films LLC for capturing film footage of our legal pedagogical interventions in front of the Diego Murals.

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*Introduction*

We are a mixed-descent Cree man and a woman of colour and are each on faculty at a Canadian law school. We are concerned that while many spaces within law schools and legal education have advanced concerted responses to the Truth and Reconciliation Commission of Canada (TRC)'s Calls to Action, the corporate/commercial law classroom too often claims immunity. Yet, colonization was asserted not only in relation to control over Indigenous lands and resources, but also on corporate/commercial enterprise and securities as legal structures intended to legitimize foreign sovereignty.<sup>1</sup> Consider, for example, the Hudson's Bay Company's<sup>2</sup>

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1. Edward Cavanagh, "A Company with Sovereignty and Subjects of its Own? The Case of the Hudson's Bay Company, 1670–1763" (2011) 26:1 CJLS 25; see also H Robert Baker, "Creating Order in the Wilderness: Transplanting the English Law to Rupert's Land, 1835–51" (1999) 17:2 L & Hist Rev 209; Hamar Foster, "Long Distance Justice: The Criminal Jurisdiction of Canadian Courts West of the Canadas" (1990) 34:1 Am J Leg Hist 1; John S Galbraith, *The Hudson's Bay Company as an Imperial Factor, 1821–1869* (Berkeley: University of California Press, 1957); Dale Gibson, "Company Justice: Origins of Legal Institutions in Pre-Confederation Manitoba" (1995) 23 Man LJ 247; DN Sprague, *Canada and the Métis, 1869–1885* (Waterloo: Wilfrid Laurier University Press, 1988); Frank J Tough, "Aboriginal Rights versus the Deed of Surrender: The Legal Rights of Native Peoples and Canada's Acquisition of the Hudson's Bay Company Territory" (1992) 17 Prairie Forum 225.

2. For more on the history of the Hudson's Bay Company see e.g. Edwin Ernest Rich, *The History of the Hudson's Bay Company, 1670–1870: 1670–1763*, vol 1 (London: Hudson's Bay Record Society, 1958); Jennifer SH Brown, *Strangers in Blood: Fur Trade Company Families in Indian Country*

foundational contributions to corporate/commercial law in what is now Canada through its royal charter as authority for business operations, and securities law when it obtained its initial capitalization through the market.<sup>3</sup> Undoubtedly, private law (including corporate/commercial law) is implicated in colonialism. Further, the assertion of Aboriginal title sets up modern legal implications that may disrupt not only control of lands and resources, but also present challenges to claims of corporate validity over such lands and resources.<sup>4</sup>

The foundations of corporate/commercial law in Canada are deeply infected with colonial assertions. As such, addressing colonialism is not solely the purview of public law but is also entrenched in private law, which means business law courses are ripe for responding to the TRC. Though this work has begun,<sup>5</sup> we call upon commercial law scholars to further address colonialism, race, gender and power dynamics within their classrooms, including their syllabi and to supplement existing teaching methods.<sup>6</sup> We offer this paper as a means to encourage business law scholars to respond actively to the TRC's Calls to Action<sup>7</sup> because, in our view, no law school course is immune. When business law courses in Canadian law schools fail to include a critique of colonialism, such classes risk becoming spaces in which imperial assumptions continue to be upheld. There are many ways in which to decolonize business law courses, from the obvious inclusion of materials that assess imperial origins in syllabi

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(Vancouver: UBC Press, 1980); Heather Rollason Driscoll, "'A Most Important Chain of Connection': Marriage in the HBC," in Theodore Binemma et al, eds, *From Rupert's Land to Canada* (Edmonton: University of Alberta Press, 2001) 83; Edward Cavanagh, "Fur Trade Colonialism: Traders and Cree at Hudson Bay," (2009) 27:1-2 *Australasian Can Stud* 85.

3. Ann M Carlos & Jill L Van Stone, "Stock Transfer Patterns in The Hudson's Bay Company: A Study Of the English Capital Market in Operation, 1670-1730" (1996) 38:3 *Bus Hist* 15.

4. Kent McNeil, "Sovereignty and the Aboriginal Nations of Rupert's Land" (1999) 37 *Man Hist* 2 (Kent McNeil asserts title claims as established in *Delgamuukw v British Columbia*, [1997] 3 SCR 1010, 153 DLR (4th) 193, represent potential challenges for the assertion of Crown sovereignty over lands and resources, which continue to be vital to Canada's commercial interests such as the export of oil, gas and lumber.)

5. See e.g. Gail Anderson, "Reconciliation in the Corporate Commercial Classroom" (18 January 2017), online (blog): *Reconciliation Syllabus* <[reconciliationsyllabus.wordpress.com/2017/01/](http://reconciliationsyllabus.wordpress.com/2017/01/)> [perma.cc/V76W-UYSZ]; Anna Lund et al, "Reconciliation in the Corporate Commercial Classroom" (2016) 2:1 *Lakehead LJ* 49 [Lund et al, "Reconciliation"].

6. We offer a number of citations throughout this paper that may serve as an introduction or advancement of materials corporate/commercial and securities law lecturers and scholars may consider including in respective syllabi. We also look forward to reading more scholarship from Indigenous and non-Indigenous authors on materials engaging with Canada's ongoing colonial project as it relates to business law—of which there has been very little published.

7. Canada, Truth And Reconciliation Commission of Canada, *Calls to Action* (Winnipeg: Truth and Reconciliation Commission of Canada, 2015), online (pdf): <[trc.ca/assets/pdf/Calls\\_to\\_Action\\_English2.pdf](http://trc.ca/assets/pdf/Calls_to_Action_English2.pdf)> [perma.cc/XSF7-C9XP] [TRC].

to varying methodologies, including experiential learning.<sup>8</sup> We opted for a combination of methods, including joining our private and public law classes as a pedagogical expansion by coming together through art—approaching art as both commodity and commentary.

For our case study, we combined two courses—Secured Transactions along with Indigenous Peoples, Art & Human Rights, though the exploration of the interaction between conventional business law material and the imperatives of the TRC recommendations could be undertaken within one course or by another combination of private and public law courses. Our law students attended the Detroit Institute of Arts (DIA) and engaged with art as simultaneously an expression of human rights and as a form of security.<sup>9</sup> Students offered both written and in-class reflections on the presentations by various curators at the DIA as we guided them through discussions in subsequent classes. We continue to unspool the results of this pedagogical exploration; this paper is our foray into an ongoing conversation of decolonizing the commercial law classroom.

The genesis of this project was Gerald Stanley’s acquittal of Colten Boushie’s murder on 9 February 2018.<sup>10</sup> The story dominated national and international headlines. The aftermath of the divisive responses to the *Stanley* verdict prompted the Faculty of Law at the University of Windsor to issue a public statement.<sup>11</sup> During this time, we, the co-authors, shared our individual experiences of discussing this case in our respective courses with each other. For Secured Transactions, students were required to read the business news and invited to offer critiques and observations on current issues in law, politics and business as a means of relating course content to the changing business law landscape. The case was relevant to many themes in the Indigenous Peoples and Art & Human Rights courses. All the students were aware of both the acquittal and the Faculty Statement

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8. See e.g. Leigh A Bradberry & Jennifer De Maio, “Learning by doing: The long-term impact of experiential learning programs on student success” (2019) 15:1 J Pol Sci Educ 94; Karl S Okamoto, “Learning and Learning-to-Learn by Doing: Simulating Corporate Practice in Law School” (1995) 45:4 J L Educ 498.

9. See the city of Detroit’s bankruptcy proceeding in *re City of Detroit*, Mich, 504 BR 97 (Mich Bankr 2013) [*Re Detroit*]; for greater context unpacking the specific role the art exhibit played in the bankruptcy proceedings see e.g. Randy Kennedy, “‘Grand Bargain’ Saves the Detroit Institute of the Arts,” *The New York Times* (7 Nov 2014), online: <[www.nytimes.com/2014/11/08/arts/design/grand-bargain-saves-the-detroit-institute-of-arts.html](http://www.nytimes.com/2014/11/08/arts/design/grand-bargain-saves-the-detroit-institute-of-arts.html)> [perma.cc/DY9E-2ZEY].

10. Scott Gilmore, “Canada’s long road to the Colten Boushie verdict” *Macleans* (10 Feb 2018), online: <[www.macleans.ca/news/canada/canadas-long-road-to-the-colten-boushie-verdict/](http://www.macleans.ca/news/canada/canadas-long-road-to-the-colten-boushie-verdict/)> [perma.cc/92TH-K8D5].

11. Faculty of Law, University of Windsor, “Windsor Law’s Statement on Stanley Trial Verdict” (27 February 2018), online: *University of Windsor* <[www.uwindsor.ca/law/2018-02-16/windsor-laws-statement-stanley-trial-verdict](http://www.uwindsor.ca/law/2018-02-16/windsor-laws-statement-stanley-trial-verdict)> [perma.cc/E8E8-EVAH].

and discussed in-class their relevance and intersection with the course material.

This paper explores our collaborative teaching and learning project. The temporary fusion of our two courses, enabled a synergy to emerge through “collateralization” and “valuation.” This methodology of combining classrooms, courses and students with diverging interests is designed to evoke reflections on the intersections of Indigenous law and commercial law in legal education. After describing our courses and our approach to combining them in aid of a richer discussion of the role of colonialism in business and commercial law, we offer five recommendations for how business law professors might incorporate the imperatives of the TRC Calls to Action.

### I. *(In)justice and the DIA*

In *R v Stanley*,<sup>12</sup> Gerald Stanley was charged with second degree murder in relation to the death of Colten Boushie. Stanley is a white farmer in Saskatchewan. Boushie was a 22-year old Cree man and member of Red Pheasant First Nation. In February 2018, Stanley was found not guilty and walked out of the court consequence-free. In advance of an appeal, a group of lawyers and legal scholars began a review of the case, the investigation leading up to the charges, the trial and transcripts.<sup>13</sup> Though there was no appeal, the case has been well considered by legal experts and academics. For the two of us as law professors, as with many others, the response of the legal system was troubling.

We sought to draw the relevance of systemic injustices further into private law classrooms, which we had informally observed had been less responsive to the TRC’s Calls to Action than public law courses. Detroit’s bankruptcy saga and the inclusion of the DIA in the legal proceedings offered an opportunity for us to demonstrate the direct linkages between public and private legal interests. It offered us a chance to echo how the *Stanley* verdict was relevant to Secured Transactions through, for example, considering how ‘valuation’ of property is determined and imputed through dominant legal regimes—too often without regard for social, political and economic contexts.

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12. *R v Stanley*, 2017 SKQB 367 [*Stanley*].

13. For more on Project Fact(a) see, Signa Daum Shanks, “Legal and Systemic Issues Left Unexamined in Stanley Trial” (24 September 2018), online: *Policy Options* <[policyoptions.irpp.org/magazines/september-2018/legal-and-systemic-issues-left-unexamined-in-stanley-trial/](http://policyoptions.irpp.org/magazines/september-2018/legal-and-systemic-issues-left-unexamined-in-stanley-trial/)> [perma.cc/73JZ-PFSL]; and their larger series “What Can We Learn From the Stanley Trial” (24 September 2018), online: *Policy Options* <[policyoptions.irpp.org/magazines/september-2018/what-can-we-learn-from-the-stanley-trial/](http://policyoptions.irpp.org/magazines/september-2018/what-can-we-learn-from-the-stanley-trial/)> [perma.cc/KJZ8-L2F3].

1. *Bankruptcy v public/private art—grounding our field school*

In 1932, Mexican artist Diego Rivera painted what has become known as the ‘Detroit Industry Murals’<sup>14</sup> on permanent display at the Detroit Institute of Art. The murals are classic Rivera, painted fresco style<sup>15</sup>—where paint is applied directly to wet plaster.<sup>16</sup> Some panels illustrate human interactivity and divinity, while others depict the capitalist enterprise at the Ford Motor Company’s Rouge River plant in nearby Dearborn, Michigan. Rivera—a known Marxist and strong advocate for public art<sup>17</sup>—immortalizes Ford’s Rouge River Plant’s assembly line technology that integrates humans with machines in the name of production of commercial goods. A few weeks prior to Rivera’s arrival in Detroit during the Great Depression, over six-thousand unemployed Ford workers protested at the Rouge River Plant.<sup>18</sup> The result was an armed conflict and the deaths of five workers with others wounded.<sup>19</sup> Rivera’s work is rooted in the conflict of the times in the way our current times generate conflict in relation to Indigenous Peoples and commercial enterprise.<sup>20</sup>

The twenty-seven panel murals are a renowned example of Mexican mural art. Just over eighty years after Rivera completed Detroit Industry, the city of Detroit was in protracted bankruptcy proceedings.<sup>21</sup> The DIA’s art collection—including the Rivera murals—was entangled in the

14. For a three-hundred and sixty degree view of the Detroit Industry Murals, see David Mariotti, “Rivera Court from end, Detroit Institute of Arts” (5 February 2010), online: <[www.360cities.net/image/rivera-court-from-end-detroit-institute-of-arts-usa-2](http://www.360cities.net/image/rivera-court-from-end-detroit-institute-of-arts-usa-2)> [perma.cc/T2NQ-XE9K].

15. Diego Rivera was renowned for his fresco painting technique of which Detroit Industry Murals are a particularly fine example. For more on Rivera and fresco painting see Mary C Pearson, *Diego Rivera’s Artistic Journey* (PhD Dissertation, California State University—Dominguez Hills Campus, 2000) [unpublished].

16. For a general discussion of fresco painting technique see Rebecca Piovesan et al, “Fresco and Lime□Paint: An Experimental Study and Objective Criteria for Distinguishing Between These Painting Techniques” (2012) 54:4 *Archeometry* 723.

17. For a biography of Rivera’s art and politics, see Betram Wolfe, *The Fabulous Life of Diego Rivera* (New York: Cooper Square Press, 2000).

18. For a general history of the protest at Ford’s Rouge River Plant see Alex Baskin, “The Ford Hunger March—1932” (1972) 13:3 *Labor History* 331.

19. *Ibid.*

20. For current examples of conflict between commercial enterprise and Indigenous Peoples, see: “Opinion: Native ownership of Trans Mountain Pipeline would replace First Nation poverty with prosperity,” *The Province* (4 May 2019), online: <[theprovince.com/opinion/op-ed/opinion-native-ownership-of-trans-mountain-pipeline-would-replace-first-nation-poverty-with-prosperity](http://theprovince.com/opinion/op-ed/opinion-native-ownership-of-trans-mountain-pipeline-would-replace-first-nation-poverty-with-prosperity)> [perma.cc/EL78-6PJW]; Sarah Cox, “Canadian Energy Pipeline Association to Lobby B.C. Government on Endangered Caribou Plans,” *The Narwhal* (26 April 2019), online: <[thenarwhal.ca/canadian-energy-pipeline-association-to-lobby-b-c-government-on-endangered-caribou-plans/](http://thenarwhal.ca/canadian-energy-pipeline-association-to-lobby-b-c-government-on-endangered-caribou-plans/)> [perma.cc/L65B-ANTK]; Idle No More, Press Release, “Grassroots Anti-Pipeline Groups and Idle No More Say ‘Enbridge No More! Shut Down The Tar Sands!’” (27 July 2013), online: <[www.idlenomore.ca/grassroots\\_anti\\_pipeline\\_groups\\_and\\_idle\\_no\\_more\\_say\\_enbridge\\_no\\_more\\_shut\\_down\\_the\\_tar\\_sands](http://www.idlenomore.ca/grassroots_anti_pipeline_groups_and_idle_no_more_say_enbridge_no_more_shut_down_the_tar_sands/)> [perma.cc/VLP3-VTPE].

21. *Re Detroit*, *supra* note 9.



litigation. In 2013, Detroit had “\$18 billion in long-term debts...defaulted on multiple bond payments, and had a cash balance of \$128.5 million during the quarter ending Sept 30.”<sup>22</sup> Detroit claimed ownership over the collection of art housed within the DIA.<sup>23</sup> The semi-public nature of the DIA and various methods of acquisition complicated the subject. The DIA acquired some pieces through private donations while others were obtained through public sponsorship. The DIA is not an entirely public institution and therefore not entirely within the city’s control.

The DIA was brought into the bankruptcy proceedings when Detroit and some of its creditors obtained an order retaining Christie’s auction house to value the DIA’s collection, including its most famous works, the Rivera frescoes.<sup>24</sup> Various stakeholders—both public and private—opposed the inclusion of the DIA’s art collection in Detroit’s Chapter 9 proceedings.<sup>25</sup> One of the most contentious issues in the bankruptcy matter were the pensions of thousands of municipal employees—including retired employees of the DIA—whose livelihood was at risk of evaporating in favour of satisfying Detroit’s creditors.<sup>26</sup>

Ultimately, Judge Gerald Rosen mediated the “Grand Bargain” (as the subsequent resolve of the matter became colloquially known). The Grand Bargain prevented the DIA dissolution and retained the art collection, which was widely viewed as a resource for the public benefit.<sup>27</sup> Like the *Stanley* case, the DIA’s inclusion in the Detroit bankruptcy elicited public outcry. In the bankruptcy case, art was portrayed as having high commercial value by various legal actors and should be leveraged to resolve debt. In the *Stanley* case, the private property rights of a white farmer were portrayed as having higher value than the life of an Indigenous man.<sup>28</sup> In

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22. Emily Glazer & Matthew Dolan, “Detroit Creditors Push for a Price on City’s Art,” *Wall Street Journal* (27 November 2013), online: <[www.wsj.com/articles/detroit-creditors-to-file-motion-for-committee-to-value-art-1385502171](http://www.wsj.com/articles/detroit-creditors-to-file-motion-for-committee-to-value-art-1385502171)> [perma.cc/W6TW-8G3S].

23. *Ibid.*

24. *Ibid.*

25. For further discussion see e.g. Danielle Wiener-Bronner, “Private Donors Try to Save Detroit’s Art Collection from Bankruptcy Auctions,” *The Atlantic* (14 January 2014), [www.theatlantic.com/entertainment/archive/2014/01/private-donors-try-save-detroits-art-collection-bankruptcy/356985/](http://www.theatlantic.com/entertainment/archive/2014/01/private-donors-try-save-detroits-art-collection-bankruptcy/356985/) [perma.cc/UMB3-T839].

26. Monica Davey, Bill Vlasic & Mary Williams Walsh, “Detroit Ruling on Bankruptcy Lifts Pension Protections,” *The New York Times* (3 December 2013), online: <[www.nytimes.com/2013/12/04/us/detroit-bankruptcy-ruling.html](http://www.nytimes.com/2013/12/04/us/detroit-bankruptcy-ruling.html)> [perma.cc/339K-AS6L].

27. Matthew Dolan, “In Detroit Bankruptcy, Art Was Key to the Deal,” *The Wall Street Journal* (7 November 2014), online: <[www.wsj.com/articles/in-detroit-bankruptcy-art-was-key-to-the-deal-1415384308](http://www.wsj.com/articles/in-detroit-bankruptcy-art-was-key-to-the-deal-1415384308)> [perma.cc/Q2MH-ZYPW].

28. Gina Starblanket & Dallas Hunt, “Opinion: How the death of Colten Boushie became recast as the story of a knight protecting his castle,” *The Globe and Mail* (13 February 2018), online: <[www.theglobeandmail.com/opinion/how-the-death-of-colten-boushie-became-recast-as-the-story-of-a](http://www.theglobeandmail.com/opinion/how-the-death-of-colten-boushie-became-recast-as-the-story-of-a)

the bankruptcy case, the public and private funders were outraged that the DIA and its collection could be privatized in favour of creditors.<sup>29</sup> In the *Stanley* case, law students in Secured Transactions did not consider the case relevant to their course, while the students in Indigenous Peoples, Art & Human Rights were deeply disturbed by the verdict. This belied the soft underbelly of a colonial narrative that prioritizes lands and resources and colonial settlement over Indigenous Peoples<sup>30</sup> as well as a construction that designates entanglements of Canadian law involving Indigenous Peoples as public, not private, law matters. Subsequently, we created our field school to purposely decolonize the corporate-commercial curriculum while demonstrating key linkages between law and colonial enterprise.

## II. *Pedagogical approach(es) and our courses*

Corporate commercial law courses are often rooted in jurisprudential analysis and typically taught as ‘black letter law,’ mainly considered through a doctrinal lens. However, ongoing shifts in legal pedagogy have prompted a growing number of law professors to employ a diverse range of teaching strategies—including an experiential learning component.<sup>31</sup> In some jurisdictions, commercial law scholars are creating a “transactional law movement,”<sup>32</sup> in which commercial law courses are taught with a transactional focus, and offering an emphasis on written client communication, contract drafting and review, and client-focused simulations.<sup>33</sup> Dissecting and examining commercial transactions provides students an experiential learning opportunity but too often falls short from exploring underlying social, political and economic dimensions. We have attempted to respond to this by creating a field school based on the framework set out by Professor Alina Ball in a business law context.

### 1. *Pedagogy*

Disruptive pedagogy is described as “pedagogical practices which disrupt normalizing discourse” through “teaching practices which disrupt marginalizing processes by encouraging students to identify and to challenge the assumptions inherent in, and the effects created by, discourses

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knight-protecting-his-castle/article37958746/> [perma.cc/N4SD-YDJ7].

29. Mark Stryker, “Detroit Rising: The DIA’s 170 million challenge,” *Detroit Free Press* (22 November 2015), online: <[www.freep.com/story/entertainment/2015/11/21/dia-after-grand-bargain-detroit-bankruptcy/75113624/](http://www.freep.com/story/entertainment/2015/11/21/dia-after-grand-bargain-detroit-bankruptcy/75113624/)> [perma.cc/4BXJ-2ATD].

30. Starblanket, *supra* note 28.

31. See e.g. Francina Cantatore, “Boosting Law Graduate Employability: Using a Pro Bono Teaching Clinic to Facilitate Experiential Learning In Commercial Law Subjects” (2015) 25:1 L Educ Rev 147.

32. Andrew Goodwin, “Teaching Corporations Law from A Transactional Perspective and Through the Use of Experiential Techniques” (2015) 25:1 L Educ Rev 221.

33. *Ibid* at 221.

constructing categories of dominance and subservice within contemporary society.”<sup>34</sup> An example of this in corporate-commercial legal education is using critical legal theory in developing business law experiential learning. Professor Alina Ball at the Faculty of Law, University of California Hastings, has written extensively on this issue and has designed a business law clinic within a critical legal theoretical framework.<sup>35</sup> Professor Ball’s pioneering application of social justice work in training law students in a corporate-commercial law context is a persuasive argument for the value critical legal theory concepts bring to traditional ‘black letter’ courses. Our field school, for example, sought to create a holistic and broader learning experience for the students that expanded vocabulary, understanding and interconnectivity and that challenged law’s structured silos.

## 2. *Secured transactions and creating our field school*

As required by the syllabus, Secured Transactions students raised media stories each week. During the week the *Stanley* verdict was released, students discussed media stories in relation to the tension between the Time Warner merger and the US Department of Justice’s response<sup>36</sup>; Kanye West’s friendship with President Trump<sup>37</sup>; as well as the Weinstein case and the *Me Too* movement.<sup>38</sup> There was no mention of the *Stanley* decision. When prompted, only half the class knew about it. The relevance of the case to a corporate/commercial law course had to be raised by the professor. The experience exemplified how easily legal pedagogy can teach law students to generate silos by subject matter. The in-class discussion of the relevance of the *Stanley* case to Secured Transactions was a powerful example of the valuation of private property rights over life—an Indigenous life.<sup>39</sup>

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34. Martin Mills, “Towards a disruptive pedagogy: Creating spaces for student and teacher resistance to social injustice” (1997) 7:1 Intl Stud Soc Educ 35 at 35-36, 39.

35. Alina Ball, “Disruptive Pedagogy: Incorporating Critical Theory in Business Law Clinics” (2015) 22:1 Clinical L Rev 1.

36. Cecilia Kang, “Why the AT&T—Time Warner Case was so Closely Watched,” *The New York Times* (12 June 2018), online: <[www.nytimes.com/2018/06/12/business/dealbook/att-time-warner-trial-antitrust-ruling.html](http://www.nytimes.com/2018/06/12/business/dealbook/att-time-warner-trial-antitrust-ruling.html)> [perma.cc/NT6J-DDCB].

37. Philip Bump, “The symbiotic Trump-Kanye West relationship,” *The Washington Post* (1 October 2018), online: <[www.washingtonpost.com/politics/2018/10/01/symbiotic-trump-kanye-west-relationship/](http://www.washingtonpost.com/politics/2018/10/01/symbiotic-trump-kanye-west-relationship/)> [perma.cc/6ED9-7MXZ].

38. Sandra Gonzalez, “The Year Since the Weinstein Scandal First Rocked Hollywood,” *CNN* (4 October 2018), online: <[www.cnn.com/2018/04/05/entertainment/weinstein-timeline/index.html](http://www.cnn.com/2018/04/05/entertainment/weinstein-timeline/index.html)> [perma.cc/V3JY-GHXS].

39. Alexandra Flynn & Estair Van Wagner, “Killing Should Not Be Justified to Protect Property,” *The Star* (2 March 2018), online: <[www.thestar.com/opinion/contributors/2018/03/02/killing-should-not-be-justified-to-protect-property.html](http://www.thestar.com/opinion/contributors/2018/03/02/killing-should-not-be-justified-to-protect-property.html)> [perma.cc/CR7B-7WNS].

The separation of public and private law in the Secured Transaction class created an opportunity for us to disrupt normative teaching methods and challenged us to think of how to apply further pedagogical tools to decolonize private law classes. As part of our pedagogical disruption, we set out to fuse two very different courses into a shared learning experience for law students at the Detroit Institute of Arts. Why? Show and tell. Rather than only tell law students why the *Stanley* trial should have been raised in Secured Transactions as relevant news, we opted to also show why it matters. More broadly, in the faculty statement, we committed as a faculty to continue the challenging work of decolonizing legal education. Creating a field school for our two classes is one of the ways in which we show our commitment to structural change and challenge the asymmetrical efforts of public and private law classes to decolonization. Our experiment was simple and we hope might be replicated in other law schools through collaborations among colleagues.

We began our trip to the DIA with Barbara Heller, a curator who provided a lecture detailing the DIA's history as an art institute as well as its role in the litigation and the valuation process with Christie's auction house.<sup>40</sup> We followed with guided tours led by DIA staff. In framing our pedagogical engagements, we offered this learning experience as an alternative approach to our students by incorporating interactive components. Our field school at the DIA allowed students to engage with commercial areas of law within legal, social, political and economic contexts through visual and historical artistic expressions, not typically offered in commercial law courses.

### 3. *Indigenous peoples, art and human rights—expanding our field school*

Law schools have implemented the TRC Calls to Action primarily in critical race and feminist legal theory courses and public law courses such as constitutional law, criminal law, and human rights law. Though there is some movement, there has been less inclusion of critical scholarship within private law, such as in business law courses. Our combining of public and private law classes generated a space for challenging a public/private law divide as well as demonstrating a means by which the TRC's Calls to Action might be considered in business law classrooms.

On the public law side of this experiment, we offered a critique through Indigenous Peoples, Art & Human Rights, a course that explores

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40. Randy Kennedy, "Christie's Reveals Detroit's Art Appraisal," *The New York Times* (4 December 2013), online: <[www.nytimes.com/2013/12/05/arts/design/christies-releases-appraisal-of-part-of-detroit-museums-collection.html](http://www.nytimes.com/2013/12/05/arts/design/christies-releases-appraisal-of-part-of-detroit-museums-collection.html)> [perma.cc/A5LU-8KLM].

human rights values through the lens of art and worldviews of Indigenous Peoples. This course considers themes like the meaning of reconciliation alongside both Canadian and international human rights from Indigenous perspectives. The syllabus is built mainly on Indigenous, along with non-Indigenous, scholars writing on human rights and Indigenous worldviews.<sup>41</sup> We also examine various Indigenous art works, such as Christi Belcourt's *Wisdom of the Universe*,<sup>42</sup> Norval Morrisseau's *Spirit Fish*,<sup>43</sup> George Littlechild's *First Nations Muscle Bound Bob Talks to Birds*,<sup>44</sup> and Bonnie Devine's *Battle for the Woodlands*,<sup>45</sup> among others. These artworks are considered in the context of critique of the dominant discourse that human rights are universal. It builds on the insight that art can offer both insight into law and for some Indigenous cultures also provide a rich source of law.<sup>46</sup>

In human rights law the focus is often on exposing and cataloguing violations based on the actions of individuals, groups, agencies, corporations and governments.<sup>47</sup> In other words, law's examination of human rights is not always predictive or preventative but rather often a post-violation dissection of offences. Art—and its protection—is also sometimes a contested location that can stimulate reflections on human

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41. Examples of syllabus readings include: Val Napoleon "Thinking About Indigenous Legal Orders" in René Provost & Colleen Sheppard, eds, *Dialogues on Human Rights and Legal Pluralism* (Dordrecht: Springer, 2013) 229; Tracey Lindberg, "Critical Indigenous Legal Theory Part 1: The Dialogue Within" (2015) 27:2 CJWL 224; Gordon Christie, "Law, Theory and Aboriginal Peoples" (2003) 2 Indigenous LJ 67; Leroy Little Bear, "Jagged worldviews colliding" in Marie Battiste, ed, *Reclaiming Indigenous Voice and Vision* (Vancouver: UBC Press, 2000) 77; and Elizabeth Edwards, Chris Gosden, & Ruth Phillips, *Sensible Objects: Colonialism, Museums and Material Culture* (New York: Berg, 2006).

42. See Christi Belcourt's Statement on her work: Christi Belcourt "Artist's statement: Christie Belcourt on 'The Wisdom of the Universe,'" (7 August 2014), online (blog): <artmatters.ca/wp/2014/08/artists-statement-christi-belcourt-on-the-wisdom-of-the-universe/> [perma.cc/5QZ6-TEAD].

43. See Norval Morrisseau & Donald Robinson, *Norval Morrisseau: Travels to the House of Invention* (Toronto: Key Porter Books, 1997); Norval Morrisseau, *Norval Morrisseau: Return to the House of Invention* (Toronto: Key Porter Books, 2005).

44. For a general discussion with George Littlechild on his art, see Jean Mendoza, "Becoming a Voice: A Conversation with George Littlechild, Illustrator" (2001) 14:4 New Advocate 321; for digital image see George Littlechild, "First Nations Muscle Bound Bob Talks to Birds," online: <georgelittlechild.com/products-page/artwork/first-nations-muscle-bound-bob-talks-to-birds/> [perma.cc/TE4N-8HMF].

45. For commentary see Erica Commanda, "Bonnie Devine's Battle for the Woodlands Battles the Status Quo," *Muskkrat Magazine* (3 January 2016), online: <muskkratmagazine.com/bonnie-devines-battle-for-the-woodlands-battles-the-status-quo/> [perma.cc/Y9LX-6WK6]; Art Gallery of Ontario, "Bonnie Devine's Woodlands" (11 December 2015), online (video): *YouTube* <www.youtube.com/watch?v=dbNbRh04fuQ> [perma.cc/8VVG-57WZ] (interview with artist).

46. Leanne Simpson, "Looking after Gdoo-naaganinaa: Precolonial Nishnaabeg Diplomatic and Treaty Relationships" (2008) 23:2 *Wicazo Sa Rev* 29.

47. Costas Douzinas, "The Paradoxes of Human Rights" (2013) 20:1 *Constellations* 51.

rights.<sup>48</sup> It can offer pro-active forms of engagement to promote human rights as an instrument of inclusion<sup>49</sup> and critique the corporatization of such rights.<sup>50</sup> For many Indigenous Peoples, art is deeply integrated into culture.<sup>51</sup> Similarly, laws are often transmitted by Indigenous Peoples through—among other things—story, song, dance, ceremony as well as living in and observing the natural world.<sup>52</sup> Indigenous Peoples, Art & Human Rights is not solely a consideration of art about human rights. Rather it considers and examines human rights with a focus on the worldviews of some Indigenous Peoples in which art and law are deeply interconnected. Our field school set out to demonstrate how art also offers a pedagogical pathway to understanding assertions of Canadian law—both public and private—in a post-TRC era.

In terms of evaluation methods for this course, students complete a research paper as well as create an original art expression of their thesis. During the in-class presentation on the student-generated art, the evaluation focuses not on the quality of the art work but rather on the strength of the connection between the artistic expression and the research paper's thesis. The quality and range of art expressions is rich, ranging from photography, film-making, carpentry, performative arts—such as drumming, singing, poetry readings—painting, sculpture, and creating original soundtracks to the creation of a social movement grounded in awareness campaigns with accompanying t-shirts sporting original graphic designs.

The capacity of law students to generate artistic expressions of their legal research paper is exceptionally high. Students can directly link their legal research and writing to a less familiar art expression of their legal work. In addition, explaining an artistic expression of their research requires law students to reach for vocabulary outside of law to convey the meaning(s) of legal concepts. In effect, law students are engaged in transmitting law through what may otherwise be categorized as art—in similar ways to how some Indigenous Peoples convey law.<sup>53</sup> We wanted to

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48. For discussion of history and techniques of Indigenous human rights claims in national and international forums see e.g. John Henry Merryman, "Cultural Property, International Trade and Human Rights" (2001) 19:1 *Cardozo Arts & Ent LJ* 51.

49. S James Anaya, "Indian Givers: What Indigenous Peoples Have Contributed to International Human Rights Law" (2006) 22 *Wash UJL & Pol'y* 107.

50. J Janewa OseiTutu, "Corporate 'Human Rights' to Intellectual Property Protection?" (2015) 55:1 *Santa Clara L Rev* 1.

51. For discussion see Steven Leuthold, *Indigenous Aesthetics: Native art, Media, and Identity* (Austin: University of Texas Press, 1998); Thomson Highway, *From Oral to Written, A Celebration of Indigenous Literature in Canada, 1980–2010* (Vancouver: Talonbooks, 2017).

52. Simpson, *supra* note 47.

53. *Ibid.*



bring a variation of this experience to law students in Secured Transactions through the development of our field school.

Following the lecture on the DIA's entrenchment in Detroit's bankruptcy proceedings, groups with students from both classes participated in guided tours led by DIA curators. This component of the field school presented challenges, such as DIA staff using past-tense language in relation to Indigenous art and objects within the DIA's collection and present tense for American and European art and objects. When specifically asked why Indigenous objects and art were located in the dark basement of the DIA, we were advised by DIA staff that it was to protect the works. Yet, upon an elevator ride to the balcony upon which to better view the Rivera Murals, the group walked through well-lit rooms and hallways with American and European art and objects on display. Students then asked why these works are unworthy of 'protection' like the Indigenous drums in the basement. The DIA staff changed their response, advising that to best be appreciated, these works needed to be displayed in the light-filled rooms of the gallery.

Some of the students criticized the subtext of the DIA staff's explanation as unsatisfactory. Among this student group, the offered explanation was a thinly-veiled sleight of hand and an overt reaffirmation of colonial narratives placing Indigenous Peoples in a murky past as undeveloped societies, while American and European art works were elevated—physically, culturally and metaphorically. It is important to recall that the DIA, like all museums and public art galleries, is an educational institution. The content and structure of the education system—public art institutions and museums included—was an imperial project.<sup>54</sup> DIA staff and the placement of Indigenous versus American and European collections reinforces imperialism. Such curation practices are also why the TRC Calls to Action include critique of museums.<sup>55</sup>

As a countermeasure in education, Marie Battiste has argued for the importance of displacing cognitive imperialism in education through the inclusion of Indigenous knowledge.<sup>56</sup> For museums and public art institutions, this also means reorganizing the collections and public education of Indigenous cultures and art works that counter—rather than

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54. See e.g. Ruth B Phillips, *Museum Pieces: Toward the Indigenization of Canadian Museums* (Montréal: McGill-Queen's University Press, 2011); Jason King, "Colonial Restitution and Indigenous Vessels of Intercultural Performance: The Stalled Repatriation of the Akwiten Grandfather Canoe" in Charlotte McIvor & Jason King, eds, *Interculturalism and Performance Now* (London: Palgrave Macmillan, 2019) 115.

55. TRC, *supra* note 7 at Calls to Action 67, 68.

56. Marie Battiste, *Decolonizing Education: Nourishing the Learning Spirit* (Saskatoon: Purich Publishing, 2013).

uphold—the colonial narrative that Indigenous Peoples are historic.<sup>57</sup> For business law classes in Canadian law schools this means including Indigenous sources of law and methodologies that critically consider business law in the context of colonization—such as that of the Hudson’s Bay Company. Without such interventions, business law classrooms in Canadian law schools risk perpetuating colonial stereotypes that relegates Indigenous Peoples to a windowless basement.

Drawing upon our field schools, post-DIA classroom discussions with students in Indigenous Peoples, Art & Human Rights drew parallels to the placement of Indigenous art and objects at the DIA and the commodification of Indigenous lands and resources to how often litigation involving Indigenous rights seems to commodify Indigenous Peoples’ rights as lesser in value than those of the settler population.<sup>58</sup> Students drew parallels to the light-infused and upper levels of American and European art at the DIA to the criminal justice system that prioritized Stanley’s protection of his farm over Boushie’s life.<sup>59</sup> To facilitate these discussions, we drew upon the principles set out in Cree legal scholar Tracey Lindberg’s work “Critical Indigenous Legal Theory Part 1: The Dialogue Within”<sup>60</sup> and Robin DiAngelo and Özlem Sensoy’s “Leaning In: A Student’s Guide to Engaging Constructively with Social Justice Content.”<sup>61</sup> As a result, the field school also offered space for a critical discussion that ensued on Rivera and his fresco-style paintings as a parallel means by which to consider Canada’s so-called national reconciliation project and how law schools might better respond to TRC’s Calls to Actions.

To generate a fresco-style mural, a ground layer must be prepared and refined to a smooth, flat surface.<sup>62</sup> This requires both a medium-fine plaster directly applied to the rough water-wetted surface of the wall, followed by a more refined plaster made up of fine-grained sand and lime. When using the fresco technique, “pigment is applied as a suspension in water onto a fresh plaster, and fixing occurs during carbonation of lime, so that only

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57. There are a number of examples of museums and public art institutions that are also positively responding to the TRC’s Calls to Action such as Calls to Action 67–70. As in law and legal education, there continues to be a need for more work to be done to dismantle centuries of colonial control and foundationally revise the structures of such institutions (TRC, *supra* note 7).

58. Darlene Johnston, “Preface: Towards Reconciliation” in Catherine Bell & Robert K Paterson, eds, *Protection of First Nations Cultural Heritage: Laws, Policy, and Reform* (Vancouver: University of British Columbia Press, 2009) vii.

59. Starblanket, *supra* note 28.

60. Tracey Lindberg, “Critical Indigenous Legal Theory Part 1: The Dialogue Within” (2015) 27:2 CJWL 224.

61. Robin DiAngelo & Özlem Sensoy, “Leaning in: A student’s guide to engaging constructively with social justice content” (2014) 11:1 Radical Pedagogy 1.

62. Piovesan, *supra* note 16.



one carbonation layer is formed on the surface.”<sup>63</sup> The paint—or pigment—is mixed directly into the plaster thereby creating a depth of the imagery rarely afforded in other painting techniques. We contemplated how the DIA’s curation of Indigenous versus American and European collections might be enriched by taking note of the fresco technique exemplified in Rivera’s Detroit Industry Murals and better blend the two collections together. We discussed whether combining both Canadian and Indigenous laws and methodologies into all law school classes—including private law courses—is better achieved through fresco, by layering Indigenous laws deeper into the structure of legal education in both public and private law.

#### 4. *Redesigning secured transactions and pedagogical engagement*

Through using a variety of pedagogical tools and student assessments, an innovative expansion of the corporate-commercial curriculum can be accomplished. The Secured Transactions syllabus, for example, was redesigned to: (a) include the normative aspects of the Ontario PPSA framework and jurisprudence; (b) expose students to an overview of the pawning regime as form of micro-securitization, the *Indian Act* and access to credit issues that inform financial inclusion, as well as the interconnection between art as collateral; (c) allow for intersectional transactional assignments; and, (d) feature a field school at the Detroit Institute of Arts.

The themes within the supplemental materials amplify how ‘valuation’ through law and language is established. Using case studies and examples to highlight commercialization and valuation in contemporary culture, sports, and entertainment are also vital tools to disrupt and engage in social justice considerations within commercial spaces. Overall, in our view, decolonizing and developing critical corporate-commercial syllabi requires a particular knowledge mobilization to not only create meaningful student engagement, but also to enhance heightened critical legal thinking skills. As well, it necessitates the inclusion of materials that offer intersectional perspectives and critical discourse.

#### 5. *Syllabi, pedagogy and social justice in private law spaces*

This project was informed by our own lived experiences in both law school and in the legal profession.<sup>64</sup> As more law professors encourage law students to be engaging in and out of the classroom, the epistemology

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63. Rebecca Piovesan et al, “The Temple of Venus (Pompeii): A Study of the Pigments and Painting Techniques” (2011) 38:10 *J Arch Sci* 2633 at 2635.

64. Hewitt was called to the Bar in Ontario in 1998 and Senthe was called to the Bar in Ontario in 2007.

of legal education is transforming.<sup>65</sup> This transformation is the aim of the Secured Transactions requirement that students monitor and discuss weekly media stories and bring them into the classroom and the requirement in Indigenous Peoples, Art & Human Rights that students produce art as an expression of their theses. Such requirements demonstrate the aliveness and changing nature of law. We find it ironic that while the practice of law, and law itself, continues to evolve, resistance to change in delivering legal education remains from both some legal educators and members of the profession—particularly in relation to decolonizing legal education.<sup>66</sup>

It appears to us, the prime justification for resistance is that law schools should teach law as neutral and that social justice is unravelling the neutrality of legal education.<sup>67</sup> This assumes—as perhaps the students in Secured Transactions did when failing to see the relevance of the *Stanley* verdict to the course—that legal education is perspectiveless.<sup>68</sup> In reality, there has never been a moment when Canadian law and legal education have been neutral.<sup>69</sup> Just as law itself evolves and changes, so too should legal education. Including anti-colonial pedagogy in commercial law courses through a focus on power dynamics, social inequities and corporate social responsibility challenges the assumption that private law is neutral.<sup>70</sup>

As legal educators, pedagogical objectives are often shaped by our individual expertise, style and professional experiences. The identity of the teacher may set the tone for the method of teaching and classroom climate. As an example, facilitating classroom discussions on systemic exclusion within the legal system can be particularly challenging for students from Indigenous, racialized and other equity seeking communities and for the lecturer. Students may feel vulnerable in conversations about race and

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65. For early pedagogical innovations away from pure Socratic case law study see Douglas McFarland, “Self-Images of Law Professors: Rethinking the Schism in Legal Education” (1985) 35:2 *J Leg Educ* 232; for recent innovations embracing experiential approaches see Bradberry, *supra* note 8; Cantatore, *supra* note 31; Goodwin, *supra* note 32.

66. See e.g. Bruce Parry, “The Social Justice Revolution Has Taken the Law Schools. This Won’t End Well,” *National Post* (27 February 2018), online: <nationalpost.com/opinion/the-social-justice-revolution-has-taken-the-law-schools-this-wont-end-well> [perma.cc/47DR-KZLG].

67. *Ibid.*

68. For more on perspectivelessness see Kimberlé Williams Crenshaw, “Forward: Toward A Race-Conscious Pedagogy in Legal Education” (1988) 11:1 *Nat’l Black LJ* 1.

69. Lisa Kerr & Lisa Kelly, “Yes, law schools must be political,” *The Globe and Mail* (31 March 2018), online: <www.theglobeandmail.com/opinion/article-yes-law-schools-must-be-political/> [perma.cc/5MR4-5F9D]; see also Battiste, *supra* note 57.

70. Sherene Razack, *Looking White People In The Eye: Gender, Race, and Culture in Courtrooms and Classrooms* (Toronto: University of Toronto Press, 1998); Patricia Williams, *The Alchemy of Race and Rights* (Cambridge: Harvard University Press, 1991); Patricia Monture, *Thunder In My Soul: A Mohawk Woman Speaks* (Halifax: Fernwood, 1995).

marginalization, relying on lecturers to effectively manage classroom dialogue. Facilitating meaningful dialogue in a supportive environment focusing on systemic and substantive equality within areas of commercial law is possible and, we believe, necessary. Inspiration might be found in scholarly interventions by a growing number of academics such as Patricia Williams, Sherene Razack, and Patricia Monture on anti-colonial pedagogy in the classroom.<sup>71</sup> Those scholars and others have written on how identity and subjectivity inform the pedagogical landscape within legal education and their work serves as a useful guide.

We find ourselves developing our course materials to reflect the evolving nature of commercial law, and the flexible responses required to educate students on rapidly shifting business law requirements such as intercultural competency, meeting clients' future needs and regulatory compliance. By using substantive sub-themes within the commercial law curriculum to supplement casebooks, students are introduced to a more expansive legal framework and we create a more inclusive learning experience. Increasing numbers of scholars in the legal academy are actively incorporating Indigenous laws, critical race theory and socio-economic perspectives into private law courses as part of a response to the TRC's Calls to Action.<sup>72</sup> In the complex landscape of legal education, we deploy pedagogical methods that seek to disrupt the status quo and we hope formulate a softening of the formalist traditional approach often still employed in private law courses. Drawing on principles of "disruptive pedagogy,"<sup>73</sup> our disruption was mostly reflected through our chosen medium, a field school at the DIA and mixing law students with different interests into a shared space and experience shaped to incorporate securities law, Indigenous laws and art, presented as both commodity and conversation.

### *Conclusion*

We hope this article demonstrates how two very different courses might be merged to generate more engaged learning environments and draw connections for students through show and tell. In spite of what might otherwise be viewed as barriers, such as class scheduling, logistical constraints and administrative challenges, we created a field school that combined art, law, commercialization and decolonization tactics. Students enrolled in either Indigenous Peoples, Art & Human Rights or Secured Transactions. Interestingly, none of the students were simultaneously

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71. *Ibid.*

72. See e.g., Lund et al, "Reconciliation," *supra* note 5.

73. Mills, *supra* note 34.

enrolled in both courses. Together the classes attended a series of lectures within a museum setting and listened to staff in relation to the curated collections at the DIA. Prior to the field school, students enrolled in Secured Transactions were assigned a research project to explore the interconnection between art as collateral within the DIA's bankruptcy context. In class, the financialization of creativity was a central precept in which expressions of art were examined through appropriation, commodification and trade by business vehicles. The students produced meaningful research snapshots of the various commercial relationships that encompass "art," such as corporate acquisition of art by law firms,<sup>74</sup> retention of art as a financing asset, art as collateral, and art-based lending (collector loans and gallery loans). In addition, a small number of students identified art as a symbol of cultural, political, and social expression.

Not only did this specific research assignment expose students to art and commercial law considerations, but also students were also introduced to cross-border issues with respect to U.S. bankruptcy proceedings. Moreover, through post-field school classroom discussions, we were able to engage in critical discussion of private law and its ongoing role in colonization; how the *Stanley* verdict was relevant to Secured Transactions through the protection of private property right; and how art is sometimes a commodity to be valued, sometimes an expression to be considered, and sometimes a vehicle into understanding why decolonizing corporate law matters.

Using the field school model as pedagogical enhancement, we were able to expand understanding of commercial relationships through in-class discussions. Students were able to relate ongoing colonial practices—such as curating Indigenous versus American and European generate art differently—to principles of business law that values property of settlers over the lives of Indigenous Peoples, such as Colten Boushie.

As a result, students subsequently expressed eagerness that future commercial courses adopt a similar component. Student feedback overwhelmingly reflected that the language of vulnerability and power were rendered more visible through the connection of law and art, as well as the series of lectures on Indigenous legal orders and art by Professor Hewitt and the museum staff. We were able to further conceptions of commercial lawyering through an interactive lens and allowed students to deepen their understanding of commercial transactions with very human consequences. There was a clearer understanding of why the *Stanley*

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74. Shirley Howarth, "Art Collection in the Law Firm" (2016), online (pdf): *Academia.edu* <[www.academia.edu/22914514/Art\\_Collections\\_in\\_the\\_Law\\_Firm](http://www.academia.edu/22914514/Art_Collections_in_the_Law_Firm)> [perma.cc/W4JG-6MSS].

verdict mattered in Secured Transactions. Our field school was both show and tell.

Placing our field school at the DIA was intentional. Museums and public art galleries are locations for social change and showcase cultural, social, economic and political identities through varying artistic mediums.<sup>75</sup> As in the particular case of the DIA, they are also sometimes sources of protracted commercial litigation. Museums have been a site of knowledge mobilization, a guardian of history, and a place of collaboration.<sup>76</sup>

In conclusion, the goal of critically engaging law students within the corporate-commercial context that critically examined business law and its role in upholding colonial structures was accomplished through our field school. In post-DIA discussions and upon reflection of the courses and the merging of students in a non-traditional learning environment, we discovered that a new ‘space’ was created to challenge dominant assumptions and to develop a site of resistance to colonization and upholding dominant power structures through commercial relationships. Through challenging the learning process, we gained an understanding of how art offers a powerful voice in our legal pedagogy. We were also able to demonstrate to students the direct relationship between commercial law and the murder of Colten Boushie that allowed Gerald Stanley to walk out of a criminal trial consequence free.

As we continue to produce, manage and create innovative teaching resources, we will incorporate more inclusive legal frameworks and techniques into the corporate commercial curriculum that seeks to decolonize the spaces we are in. Like Diego Rivera, we hope our contributions are formed at the base level, mixed so deeply in that it changes the structure of legal education—fresco style—and produces something as profound, extraordinary and lasting as the Detroit Industry Murals.

### *Recommendations*

#### *(a) Some suggestions on incorporating TRC Calls to Action in Business Law classrooms*

Based on our general teaching experience and specifically on our field school, we offer the following as a broad list of suggestions to assist in responding to TRC’s Calls to Actions in private law classrooms. We offer

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75. Elizabeth Duclos-Orsello, “Shared Authority: The Key to Museum Education as Social Change” (2013) 38:2 J Museum Educ 121.

76. Jennifer Wild Czajkowski, “Changing the Rules: Making Space for Interactive Learning in the Galleries of the Detroit Institute of Arts” (2011) 36:2 J Museum Educ 171.

this hoping it opens conversation. We know our list is not complete and encourage others to contribute:

1. **Commit.** Openly commit to decolonizing classrooms and research through teaching, writing, and publishing private law materials that include social, political and economic contexts. Such materials should examine, among other things, the ongoing relationship between business law and colonization. Committing to decolonization may seem obvious but it is a necessary step. At Windsor Law, for example, one of the ways this commitment was demonstrated was through a Faculty Statement in relation to the decision in the *Stanley* trial. As law professors, we each continue to actively follow-up on our commitment through various actions, such as the development of our field school. Committing to decolonization should be done on a multitude of levels (i.e. institutional, in teaching groups and individually), and must be ongoing. It should be uncomfortable and may result in critique (such as from those who argue law is and should remain neutral), but it is necessary nonetheless.
2. **Teach.** Syllabus content is vital. Making room, not just a few minutes in one lecture but throughout an entire course, for materials that offer critiques of law and provides historical context in relation to business law and Indigenous Peoples should be included and referred to with ongoing interventions throughout the course. We provide some suggested materials throughout this paper and encourage business law scholars to produce more.
3. **Collaborate.** Collaboration with colleagues is essential. Though decolonizing is the responsibility of every individual, it is not and should not be a solo effort. Our field school arose out of our discussions as colleagues. Good collaborations should disrupt the imperial underpinnings of education in Canadian law schools and empower not only students but participating faculty as well. These collaborations in reconfiguring business law could also extend transnationally with colleagues from other jurisdictions.
4. **Learn.** Experiential learning is vital to decolonizing business law classrooms. We believe both show (actions such as our field school) and tell (syllabi and lectures) are crucial components to successful collaborations and to decolonizing private law classrooms. In this piece, we cite some scholarship of others who recognize the value of experiential learning in business law classrooms—that can and should be underpinned by social, political and economic contexts. We recommend not limiting the experience to only the TRC's Calls to Action relating to law and legal education. Consider developing an

experiential learning process that incorporates other Calls to Action as well. For example, we intentionally attended the DIA to address Calls to Actions aimed at museums as an effort to disrupt colonial narratives in public spaces. There are Calls to Action related to sports, journalism and other areas to consider in a collaborative learning experiences designed for private (and public) law courses.

5. Talk. Do not avoid difficult discussions. Host them. In our respective classes, it was not easy to facilitate post-DIA discussions with students relating to colonization. Here, we intentionally suggest facilitating versus lecturing—the latter assuming expertise while the former offers room to locate ourselves within the issues. While we know there is other scholarship to draw from, as a first step we recommend including the work of Tracey Lindberg,<sup>77</sup> Tuck and Yang,<sup>78</sup> as well as DiAngelo and Sensoy<sup>79</sup> onto syllabi as mandatory reading. Draw on the principles set out therein to promote meaningful classroom discussions. Facilitating discussions on challenging content requires practice, patience and kindness—in the classroom, with colleagues and with ourselves.

Finally, the aspirational goal of this paper was to highlight our own teaching experiences, offer them to others for consideration, and to invite our colleagues in the academy to join us in disrupting business as usual.

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77. Lindberg, *supra* note 61.

78. Eve Tuck & K Wayne Yang, “Decolonization is Not a Metaphor” (2012) 1:1 Decolonization: Indigeneity, Educ & Soc’y 1.

79. DiAngelo, *supra* note 62.