Teaching the Plurality of Law and Development: Teaching of and with Contested Knowledge

By *Siddharth Peter de Souza*[*] and *Thomas Dollmaier*[**]

A. Introduction

The teaching of any subject is more than the simple transfer of knowledge from the instructor to the student. Instead, it is a co-constitutive process of knowledge disruption, formation, and consolidation.[1] Teaching provides an opportunity from a critical perspective as it offers the possibility to make social interventions, to interrogate power, to confront injustice, and to probe the boundaries of what is possible and imagine different alternatives.[2] Bell hooks speaks of teaching as a transgressive practice in which classrooms can offer spaces from where dominant narratives can be challenged, assumptions can be questioned, and where students become active participants in a process of co-learning, and in doing so, see education as the practice of freedom.[3]

These are crucial starting points in our exploration of teaching as we intend to discuss its potential as a lens for studying how knowledge is produced, the negotiations and translations that are made to distill this knowledge for a classroom, and the structural questions that emerge in relation to how a field of law is constituted. This special issue seeks to draw attention to the teaching of one specific area, namely Law and Development. As a highly interdisciplinary area of law, Law and Development provides a plural landscape of scholarly research and practice which has evolved significantly over the last decades. The plurality emerges from the polyvocal nature in which the contours of the field are determined by an array of laws and actors on the global, regional, national and local level:[4] from

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1 *Luis Eslava*, The Teaching of (Another) International Law: Critical Realism and the Question of Agency and Structure, The Law Teacher 54 (2020), p. 368; *Anthea Roberts*, Is International Law International?, Oxford 2017.

2 *Upendra Baxi*, "Teaching as Provocation", in: Amrik Singh (ed.), On Being a Teacher, New Delhi 1990, pp. 150–8.

3 *Bell hooks*, Teaching To Transgress, New York 2014.

4 *Benedict Kingsbury*, *Nico Krisch* and *Richard B. Stewart*, The Emergence of Global Administrative Law, Law and Contemporary Problems 68 (2005), p. 15; *Armin von Bogdandy*, *Philipp Dann* and *Matthias Goldmann*, Developing The Publicness of Public International Law: Towards a Legal

international organizations and domestic aid agencies engaged in development practice,[5] to scholars seeking to develop characteristics to understand, assess, and systematize the field,[6] private entities and practitioners who are in the business of "doing" law and development,[7] social movements which organize around and often resist "development",[8] or people who are affected by development projects or programs.[9] These locations, levels and laws – and the actors they implicate – provide different starting points and cases for how to teach and develop a course or program on Law and Development.

We argue that this plurality impacts not only the teaching of Law and Development but its epistemology more broadly.[10] Together with the contributors to this special issue, we are interested in how the heterodoxy and plurality of the field translate into different approaches toward teaching. In particular, we want to learn more about what we call the *functionalities of teaching*, i.e., what instructors *do* and what kind of *choices* they make when teaching Law and Development and what *struggles* against dominant knowledges and knowledge practices are entailed in this process.[11]

Framework for Global Governance Activities, in: Armin von Bogdandy and others (eds.), The Exercise of Public Authority by International Institutions, Berlin 2010; *Luis Eslava*, Local space, global life, Cambridge 2015.

5 Examples for such international organizations are the United Nations Development Programme (UNDP) or multilateral development banks like the World Bank. The Department for International Development (DFID) in the United Kingdom or the German Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) are among the biggest domestic aid agencies.

6 Scholarly networks like the Law and Development Research Network (LDRN) or the Law and Development Institute (LDI) have emerged, see 'Law and Development Research Network', https://lawdev.org/ and 'Law and Development Institute', https://lawanddevelopment.net/ and; *Koen de Feyter*, *Gamze Erdem Türkelli* and *Stéphanie de Moerloose*, Future of Law and Development Research: An Introduction to the Encyclopedia of Law and Development, Encyclopedia of Law and Development 1 (2021); *Philipp Dann*, Institutional law and development governance: an introduction, Law and Development Review 12.2 (2019), pp. 537–560.

7 *Brian Z. Tamanaha, Caroline Sage* and *Michael Woolcock*, Legal Pluralism and Development: Scholars and Practitioners in Dialogue, Cambridge 2012.

8 *Usha Ramanathan*, Displacement and the Law, Economic and Political Weekly 31 (1996), p. 1486; *S. Muralidhar*, Law, Poverty, and Legal Aid: Access to Criminal Justice, New Delhi 2004.

9 *Jan Saendig*, *Jochen von Bernstorff* and *Andreas Hasenclever*, Affectedness and Participation in International Institutions, New York 2020.

10 *Bal Sokhi-Bulley*, Alternative methodologies: learning critique as a skill, Law and Method 3.2 (2013), pp. 6–23.

11 We use the term "struggle" from both an epistemic as well as a didactical angle. Epistemologically, our usage of the term is inspired by the work of Santos who speaks out against epistemicide (*Boaventura de Sousa Santos*, Epistemologies of the South: Justice Against Epistemicide, New York 2015) and it relates to the need for epistemic diversity and pluralism as argued by *Achille Joseph Mbembe*, Decolonizing the University: New Directions, Arts and Humanities in Higher Education 15 (2016), p. 29; and *Vanessa Andreotti*, *Cash Ahenakew* and *Garrick Cooper*, Epistemological Pluralism: Ethical and Pedagogical Challenges in Higher Education, AlterNative: An International Journal of Indigenous Peoples 7 (2011), p. 40. Using the term "struggle" is further inspired by the importance of "writing back", and reclaiming methodologies as argued by Linda

Through this exploration, this special issue aims to serve as a (critical) self-reflexive exercise not just for the authors but also for the reader to observe parallels and contrasts with regard to how the plurality of Law and Development is being dealt with when discussing, disrupting, creating, and transferring Law and Development knowledge. In this way, the special issue aims to establish a dialogue between the classroom and the field, and the ways in which both interact, interpret, and influence each other.

This article proceeds in the following steps: We first introduce the reader to the substantive plurality of Law and Development by providing a snapshot of the nature and evolution of the field. By substantive plurality we refer to the diversity of themes, concepts, theories, actors, laws, institutions, experiences and stories, the combination of which have come to define Law and Development. Building on this inquiry, we elaborate on the significance of teaching and the gap in Law and Development literature in this regard. In a next step, we link the status quo of substantive plurality with questions of epistemology. Specifically, we argue that the substantive plurality of Law and Development entails and is reflective of the contestedness of Law and Development knowledge. We build this argument inductively by engaging with the *functionalities of teaching* and by exploring key messages from the contributions to this special issue, with a specific focus on the multifaceted and individual *struggles, resistances, and innovations* that the authors describe when teaching Law and Development. Crucially, we observe tensions between the approaches and reflections shared in the different articles of this special issue. Building on the descriptions made by the contributors, we then elaborate on the notion of provincialization to provide epistemic space for these tensions and to accommodate the substantive plurality and contestedness of Law and Development knowledge more broadly. In the conclusion, we offer the idea of "contestedness as a (didactical) sensibility" when teaching and designing Law and Development courses or programs in an effort to proactively embrace aspects of positionality and to operationalize the notion of provincialization inside the classroom.

B. The plural nature and evolution of Law and Development

The observation that the area of Law and Development encompasses a multitude of themes, concepts, theories, actors, laws, institutions, experiences, and stories is not new.[12] Instead, from the perspective of today, it can be described as one of the defining features of the

Tuhiwai Smith, Introduction, Decolonizing Methodologies: Research and Indigenous Peoples, London 2012. In short, we see "struggle" as a metaphor for resistance against dominant and hegemonic modes of knowledge production and transfer.

12 *Liliana Lizarazo-Rodriguez*, Mapping Law and Development Review Article, Indonesian Journal of International & Comparative Law 4 (2017), p. 761.

field[13] – well aware that such an acknowledgement of plurality was certainly missing in the early years of the Law and Development movement as it originated in the United States.[14]

Thematically, research and practice may focus on questions of inequality, human rights, institutional law, rule of law promotion, property rights, or gender justice as points of interest in mapping the intersection between law and development.[15] In addition to thematic considerations on how law and development interrelate, scholars have focused more exclusively on the law by considering law as an instrument of development. This initially rather narrow perspective of instrumentalism also reflects one of the motivations behind the origins of the Law and Development movement.[16] At the same time, iterations of this approach survive until today. For example, multilateral development actors like the World Bank have long considered legal reforms as a means towards achieving developmental outcomes.[17] Going even one step further, law can also be seen as an end in itself. Understood this way, some actors see an intrinsic value in concepts like the rule of law or in fundamental freedoms, beyond their purely instrumental functions.[18] Finally, law can also be seen as a framework to regulate development, where it assesses and evaluates the functioning of development actors.[19]

13 *Feyter*, *Türkelli* and *Moerloose*, note 6. *Philipp Dann*, *Michael Riegner* and *Thomas Dollmaier*, The plurality of law and development – Reflections on a field in transformation, Völkerrechtsblog, 25 September 2019, https://voelkerrechtsblog.org/de/the-plurality-of-law-and-development/ (last accessed on 29 July 2022).

14 For a first reflection on this, *David M. Trubek* and *Marc Galanter*, Scholars in Self-Estrangement: Some Reflections on the Crisis in Law and Development Studies in the United States, Wisconsin Law Review 1974 (1974), p. 1062.

15 Illustrative of this thematic plurality of Law and Development is the conference program of the 4th Annual Conference of the Law and Development Research Network (LDRN), held on 25–27 September 2019 in Berlin, https://ldrn2019berlin.files.wordpress.com/2019/09/programmheft_23.09.19.pdf (last accessed on 29 July 2022). The authors were part of the organization team at the Chair for Public Law and Comparative Law at Humboldt-Universität zu Berlin.

16 *Trubek* and *Galanter*, note 14.

17 *Alvaro Santos*, The World Bank's Uses of the "Rule of Law" Promise in Economic Development, in: David M. Trubek and Alvaro Santos (eds.), The New Law and Economic Development, Cambridge 2006.

18 *Stephen Humphreys*, Introduction, Theatre of the Rule of Law: Transnational Legal Intervention in Theory and Practice, Cambridge 2010; *Siddharth Peter de Souza*, Designing Indicators for a Plural Legal World, Cambridge 2022. *Stephen Golub*, Beyond Rule of Law Orthodoxy: The Legal Empowerment Alternative, Rule of Law Series 41 (2003), https://carnegieendowment.org/2003/10/14/beyond-rule-of-law-orthodoxy-legal-empowerment-alternative-pub-1367 (last accessed on 29 July 2022); *Laura Goodwin* and *Vivek Maru*, What Do We Know about Legal Empowerment? Mapping the Evidence, Hague Journal on the Rule of Law 9 (2017), p. 157.

19 *Mariana Mota Prado*, What Is Law and Development?, Revista Argentina de Teoria Juridica 11 (2010), https://papers.ssrn.com/abstract=1907298 (last accessed on 27 October 2018); *Philipp Dann*, The Law of Development Cooperation: A Comparative Analysis of the World Bank, the EU and Germany, Cambridge 2013.

Similarly, the very notion of "development" has experienced different interpretations by different actors, with a changing focus on economic growth, human freedoms, or sustainability.[20] At the same time, the practice of development has taken different forms, often emerging as a technical exercise with ideas from economic policies to institutional reform originating in the Global North as neoliberal or neocolonial tools to govern the South.[21] Those who receive or are impacted by such "development" have of course resisted such an approach, with varying success.[22] The epistemic questions which arise from this plurality of notions of "development" raise concerns about who constructs these ideas, what are the purposes and politics behind them, and what types of worlds do they engender – making the definition of "development" a genuinely political endeavor requiring constant re-negotiation.[23]

This fluidity in the ways in which one can examine law, development, and the relations between the two, points to and is illustrative of a substantive plurality in the field. To investigate this plurality further, in the next section, we seek to shift the focus toward teaching as a practice of knowledge creation, reflection, disruption, and dissemination.

C. The significance of teaching in a plural and diverse field

Overall, teaching represents an under-researched and under-theorized space in Law and Development scholarship and practice, from which we argue it is possible to uncover and interpret trends, directions, and domains that are growing within the area. As Law and Development courses have emerged in different countries with different focuses, commitments, and points of view, an illustration of the much-discussed plurality of the field is becoming visible at educational institutions both in the Global North and South. Notably, plurality does not just mean plurality in terms of concepts, methods, and substance, but also a plurality of voices, experiences, and memories of what the field is and how it has come to be presented.[24]

20 *Wolfgang Sachs*, Preface to the New Edition, in: Wolfgang Sachs (ed.), The Development Dictionary, London 2009. Most famously on a focus on human freedoms, see *Amartya Sen*, Introduction: Development as Freedom, Development as Freedom, Oxford 2001.

21 *Arturo Escobar*, Encountering Development, Princeton 1995; *Bhupinder S. Chimni*, International institutions today: an imperial global state in the making, European Journal of International Law 15.1 (2004), pp. 1–37.

22 *Balakrishnan Rajagopal*, Introduction, International Law from Below: Development, Social Movements and Third World Resistance, Cambridge 2003; *Balakrishnan Rajagopal*, Writing Third World Resistance Into International Law, International Law from Below: Development, Social Movements and Third World Resistance, Cambridge 2003.

23 *Dann*, note 19; *Ashish Kothari, Ariel Salleh, Federico Demaria* and *Alberto Acosta (eds.)*, Pluriverse: A Post-Development Dictionary, New Delhi 2019.

24 *Foluke Adebisi*, Decolonisation & the Law School: Initial Thoughts, Foluke's African Skies, 22 July 2019, https://folukeafrica.com/decolonisation-the-law-school-initial-thoughts/ (last accessed on 23 August 2021).

We thus see the area of teaching as a chance to reflect upon the state of Law and Development more generally, upon its histories, its status, and possible future trajectories.[25] This inquiry into teaching Law and Development offers a lens on how knowledge is being conceptualized, translated, and then transmitted in the classroom. It raises questions of what it means to teach a program that is by design inter-disciplinary, intra-disciplinary, multilevel, and comparative in nature.[26]

As an area that is increasingly aware of its open-ended character,[27] this also means a fluidity in terms of curricula, teaching methods, choice of readings or cases, qualifications of students and teachers, and whether Law and Development is offered as a degree, core curriculum or as an elective. These are engagements and reflections which are taking place in other related fields such as public international law,[28] but which so far have been few in Law and Development scholarship.

In order to address this gap, we sought to translate the substantive plurality of Law and Development into a plurality of different voices – voices which not only help illustrate the substantive plurality of the field, but which offer first-hand accounts of how course instructors engage with the contestedness of Law and Development knowledge, and the struggle this entails, in order to design and implement a course or program. For this reason, this special issue brings together five empirically rich and grounded perspectives from academics and teachers located at different universities in Belgium, Brazil, Estonia, India, the Netherlands, Norway, South Africa, Spain, the United Kingdom, and Zimbabwe. Each of the five case studies of teaching Law and Development is highly reflexive in nature and draws from a catalogue of experiences that have emerged in designing and running the courses and programs. They thus come with different lenses and explorations of the possibilities which teaching offers for reflecting on the field.

In particular, the analyses cover three levels: At one level, teaching provides a basis to understand the nature of the field, by examining its key characteristics, who are the important actors, and what are the interests and concerns raised by different stakeholders.

25 See also *Paulo Freire*, Pedagogy of the Oppressed, USA 2018; *Boaventura de Sousa Santos*, From University to Pluriversity and Subversity, The End of the Cognitive Empire: The Coming of Age of Epistemologies of the South, Durham 2018; *Hooks*, note 3.

26 *Michael Riegner* and *Philipp Dann*, ‚Recht und Entwicklung' als Gegenstand der Juristenausbildung: Konturen und Didaktik eines intra- und interdisziplinär vernetzten Studienfachs, Verfassung und Recht in Übersee 41 (2008), pp. 309–335.

27 *Celine Tan*, Beyond the "Moments" of Law and Development: Critical Reflections on Law and Development Scholarship in a Globalized Economy, Law and Development Review 12 (2019), p. 285.

28 See for example, *Michelle Burgis-Kasthala* and *Christine Schwobel-Patel*, Against Coloniality in the International Law Curriculum: Examining Decoloniality, The Law Teacher (2022), p. 1; *Mohsen al Attar*, Must International Legal Pedagogy Remain Eurocentric?, Asian Journal of International Law 11 (2021), p. 176; *Mohsen al Attar* and *Shaimaa Abdelkarim*, Decolonising the Curriculum in International Law: Entrapments in Praxis and Critical Thought, Law and Critique (2021), https://doi.org/10.1007/s10978-021-09313-y (last accessed on 30 July 2022).

This level thus approaches the substantive elements of the field from a macro perspective through the lens of teaching. At a second level, the mapping of different experiences as provided by the contributors to this special issue gives us a chance to examine specific examples of the politics of the field. This level thus illustrates the substantive (plural) characteristics of the field from the perspective of how these characteristics unfold in practice and how they are continuously renegotiated. This links substantive plurality with epistemic contestation because in order to accommodate plurality as a matter of substance, course instructors are confronted with the contestedness of Law and Development knowledge. By providing individual experiences, the authors on a third level also offer a direct insight about the functionalities of teaching, i.e., what instructors actually *do* inside the classroom and what kind of *choices* they make when teaching Law and Development. This third level thus connects the characteristics of the field (macro perspective), with how these characteristics unfold in practice (macro-micro perspective), with individual experiences and reflections (micro perspective). It shines light on what the strategies and forms of resistance look like to ensure the epistemic plurality *of teaching* Law and Development.

Taken together, we believe this special issue provides a critical take on the epistemology of Law and Development, approached through the perspective of teaching. We believe this allows us, through a selected number of experiences, to take stock of knowledge creation and transfer in Law and Development, i.e., the structure within which we operate, while highlighting the agency of the course instructors and teachers to proactively shape and co-create the field. As part of this agency, in the conclusion we offer the notion of "contestedness as a (didactical) sensibility" when designing and teaching Law and Development courses or programs, and we make suggestions of what such a sensibility can entail.

The rest of this article is guided by our inductive approach toward teaching, with a tendency from micro to macro by zooming in on the functionalities of teaching as described by the authors before drawing more general conclusions and observations from the different contributions.

D. The functionalities of teaching and the future of a contested and provincialized field

I. The functionalities of teaching

Focusing on the functionalities of teaching provides us with the opportunity to examine not just how knowledge on Law and Development is being shared and taught, but also how it is being applied, interrogated and re-constituted through discussions within and outside educational spaces.[29] The functionalities of teaching allow us to make two observations in particular: First, how do the authors translate the substantive plurality of Law and Develop-

29 *Daniel Bonilla Maldonado*, The Political Economy of Legal Knowledge, in: Daniel Bonilla Maldonado / Colin Crawford (eds.), Constitutionalism in the Americas, Cheltenham 2018; *Eslava*, note 1.

ment into their courses? And building on this translation, secondly, how do they face and engage with the contestedness of Law and Development knowledge epistemologically? In short, what do their struggles and resistances look like?

We focus on these questions because they illustrate how within teaching a course a tension exists between how instructors identify themselves, how they link different interests, and where they find common connections. For many instructors, Law and Development becomes an umbrella field – a "bridging term" as Eenmaa, Goodwin, Ikdahl and Santocildes call it – to be able to accommodate differences and varied points of view. This openendedness, however, does not present itself as a menu from which to pick and choose but rather comes with manifold challenges. Despite their shared reflexive and critical approach, we thus observe that the reflections offered by the authors also diverge. For example, instructors are constantly negotiating with and amongst themselves about how Law and Development should be framed, what purpose it shall serve, the country specific challenges of legal transplantation, the colonial continuities of "development" which look different across the South, and the specific pushbacks from students about the relevance and local applicability of what is taught. The authors offer different perspectives and answers to these questions. For example, depending on whether their courses are taught in the Global North or South, course instructors take a different position on whether to engage critically with the historic responsibility and privilege from the position of the North, or focus on emancipation and resistance from the South. As their descriptions and arguments will illustrate, all authors in varied ways focus on the epistemic dimension of these issues, but some also elaborate on questions of representation among students and teachers, logistical issues like funding, or operational aspects like intercultural communication. In addition, the course instructors examine questions about whose experiences and stories are being highlighted in the courses, what these experiences relate to, what the politics of these experiences are, and in how far are they recognized as canonical to the field. For some authors, this requires a theoretical engagement with different theories which try to explain the field, while others argue for practical research skills and a focus on what Law and Development scholars actually "do". Further, while some authors situate their courses more deeply within the local context, others focus on comparison, and in turn put a greater emphasis on creating contrast and pushing back on hegemonic knowledge and approaches.

We thus find that the articles illustrate a *consensus about the lack of a consensus* in how to design or teach a course or program on Law and Development. Importantly, we see this lack of a consensus not merely as an illustration of the course instructors' individual preferences. Instead, we consider the lack of a consensus as reflective of inherently structural characteristics of the field and its epistemic contestedness. The functionalities of teaching in this special issue thus present a mapping of and reflections about the real-life struggles and challenges of teachers with a different cultural, academic, and institutional background about how to translate the plurality of Law and Development into the type of knowledge and courses they would like to teach. The following paragraphs seek to briefly explore and map this struggle.

In their paper, Neeraj Grover and Arun Thiruvengadam present the motivations, challenges and reflections of teaching Law and Development at Azim Premji University in Bangalore, India. The authors focus on three aspects in particular: Firstly, they reflect upon the interdisciplinarity of Law and Development and the difficulty to "ascertain its boundaries". Secondly, Grover and Thiruvengadam elaborate on their efforts to build a specific Indian context in their course, while keeping a comparative angle. And thirdly, the authors share their experiences of teaching Law and Development as a public and private law scholar respectively. What becomes apparent in their contribution is the multidimensionality of contestation of Law and Development knowledge: Their reflections engage with the struggle of teachers whose objective it is to include the hegemonic (Western) voices of the Law and Development movement while also introducing their critique, the ambiguity of the relationship between law and society, the specificities of "development" in a particular domestic context, and the inter- and intradisciplinary opportunities and challenges which the teaching of a course on Law and Development entails.

These struggles with boundaries caused by the complexity of Law and Development also emerge in the paper by Helen Eenmaa, Morag Goodwin, Ingunn Ikdahl and Marta Enciso Santocildes, who discuss the genesis of the European Joint Doctorate in Law and Development (EDOLAD). The authors elaborate on how, as a group of scholars, they reflect on and self-identify with the field, if at all, and in different ways and based on different interests. In their article, they discuss the challenges of building a curriculum that speaks to a shared understanding, a coherent methodology that works across multi-university contexts, and the operational aspects of funding and resources that go into building such a program. The authors also reflect on the construction of a program and its implications on the politics of legal knowledge, considering how certain ideas have been and continue to be privileged. They further share how they aimed to create a program in which a community was "comfortable with discomfort". To achieve this, the authors argue for a critical methodology that interrogates policy and topics from the standpoint of power relations at the level of family, society, and global ordering.

Connecting with the importance to situate the teaching of a course within its material realities, Ada Ordor and Nkosana Maphosa discuss their experiences of teaching Law and Development through a case study of a course offered at the Great Zimbabwe University. They argue that the teaching of Law and Development needs to problematize the theorizing of the field by the Global North, in order to account for diversity and layered pluralism which exists in the African continent. In their view, an important location for such knowledge creation is the regional cooperation between different African states as a means to understanding the ways in which objectives for development are set, as well as how law is used as an instrument for regulation. Because of the abundance of Law and Development material from scholars and institutions from the Global North, the authors struggle with the disjuncture between the content of a Law and Development curriculum and the locations and contexts of the students. This disjuncture poses a particular challenge for course instructors. To address it, Ordor and Maphosa argue for engaging with alternative develop-

ment pathways characterized by deep legal pluralism and the lived experiences of students. In the view of the authors, teaching thus needs to challenge a one-size-fits-all approach when it comes to analyzing the field, and curricula need to reflect the contestedness of knowledges which exist.

By adopting an autoethnographic approach, Wouter Vandenhole discusses the building of a module that engages critically with the knowledge from and about Law and Development. In his article, Vandenhole offers a critical self-reflection about the design, objectives, choices and challenges of building and teaching the "Sustainable Development and Global Justice" module at the University of Antwerp in Belgium. The author focuses on two aspects in particular, which also impact the substance being taught, the teaching method, the student body, and the relationship between the instructors and the students. Vandenhole first describes how intercultural (communication) skills are critical to overcome ethnocentrism and foster the ability to work in diverse cultural contexts. However, the author advances that creating diversity inside the classroom is only the beginning and requires further didactical effort to hone the skill of fruitful intercultural communication. Secondly, Vandenhole describes the struggle of decolonizing a module on Law and Development. As part of these efforts, he explores the terminology used, the geographical location of the course, the selection of perspectives, content, themes and reading materials, as well as the assignment and assessment methods and standards. Vandenhole is acutely aware that decolonizing a module on Law and Development, or as a matter-of-fact knowledge production and academia more broadly, so far remains a "work in progress".

In the final piece in this issue, Diego Coutinho and Iagê Miola offer an account of teaching Law and Development in Brazil. In their paper, they describe two distinct but interrelated experiences: Firstly, the experience of understanding law in an institutional and political context and seeing it as a technology for development. And secondly, by looking at its socio-legal implications, they examine the role of law as it facilitates economic relations. Their article thus explores how the teaching of Law and Development can take on different goals depending on the perspective of the instructor. However, central to the authors' different approaches is the fact that law has an important role to play in shaping economic, social, and legal relations around different models of development. They conclude by stating that inherent in Law and Development is the epistemic diversity about how courses are designed, which methods are adopted, and what meanings and claims are provided. Building on this, the authors discuss the importance of temporality and periodization of development in a Brazilian context, as well as the use of case studies to achieve epistemic diversity. For them, it is more valuable to examine how Law and Development is practiced and "done", rather than formally conceptualizing it.

Through these contributions, the authors have reflected on how, through their teaching, they have translated the substantive plurality of Law and Development into their courses or programs. The pieces of this special issue thus illustrate the value of examining how teaching is "done". The struggles and resistances of teachers show that the contestedness of Law and Development knowledge is omnipresent when trying to design and implement

a course or program, and how this contested knowledge is a result of and corollary to substantive plurality. The contributors thus acknowledge their role in the political economy of legal knowledge production, well aware of how structure and agency interrelate.[30]

Building on their contributions, in the following section we seek to establish a link between the *functionalities of teaching* as provided by the authors and the epistemic contestedness of the field. On a descriptive level, we see evidence in the articles that the authors have in and through their own teaching provincialized the field. Through brief references to the articles, we explore some elements of the authors' efforts to provincialize. This mapping is preceded by a broader normative claim in which we argue that the notion of provincialization provides an opportunity to make productive use of and accommodate the contestedness of Law and Development knowledge inside the classroom.

II. Provincialization as a lens to understand the politics of the field and accommodate contested knowledge

In one of their recent pieces, Trubek and Santos argue that there have been significant *moments* in the field of Law and Development. For instance, when law was primarily perceived as an instrument of state policy, when it emerged as a framework for market activity, and then as an object of development.[31] However, as the pieces of the authors in the special issue illustrate, taking such a linear trajectory to examine the field discounts its previous and ongoing contestedness.

This observation was also confirmed in a qualitative assessment of course descriptions from six law schools in Australia, Brazil, India, Singapore, the United Kingdom and the United States, through which we previously found that course instructors have a vastly different understanding of what "law" and "development" mean, and how they interrelate.[32] In essence, there's no way of telling at first sight what scholars talk about when they talk about Law and Development. Instead, "law" and "development" as well as their interrelation are social phenomena which are created, understood, and sustained in the very context within which they emerge. Through this analysis, we examined how didactical and pedagogical choices, which many of us make unconsciously, impact the process of knowledge creation and transfer inside the classroom. Understood this way, the classroom can either be a place where the historic hierarchies of Law and Development as a field deeply implicated in the economic, social, political and cultural injustices between the

30 *Eslava,* note 1. See also *Duncan Kennedy*, Legal Education and the Reproduction of Hierarchy, Journal of Legal Education 32 (1982), p. 591.

31 David *M. Trubek* and *Alvaro Santos*, Introduction: The Third Moment in Law and Development Theory and the Emergence of a New Critical Practice, in: Alvaro Santos / David M. Trubek (eds.), The New Law and Economic Development: A Critical Appraisal, Cambridge 2006.

32 *Siddharth Peter de Souza* and *Thomas Dollmaier*, The Teaching of Law and Development: Towards Inclusiveness and Reflexivity across Time Zones, International Journal of Law in Context 17 (2021), p. 438.

Global South and North manifest and reproduce themselves, or a place where the manifold contestations of Law and Development are allowed to prosper, and where the contestedness of the field is understood as a productive opportunity to teach and learn about the "extreme interrelatedness of everything with everything else in a society" [33] – including but not limited to law. In that piece, we introduced the metaphor of "time-zones" to capture this situatedness. This situatedness, to draw from Santos, requires us to engage with time spaces where there are varied narratives, some subaltern or insurgent, which all co-produce Law and Development knowledge.[34]

Based on these insights and the contributions by the authors, we argue that provincialization offers the opportunity to decenter concepts, ideas, and normative underpinnings of Law and Development as they emerge from a particular academy.[35] From this perspective, provincialization provides the possibility to ask what "hegemony" means as it applies to the production and circulation of legal knowledge, in how far are concepts circulating from a narrow set of (European) actors, and to what extent are their origins not being questioned critically.[36] In doing so, through the process of provincialization, we are able to account for the global power relations that define what is considered important, valid and relevant.[37] In acknowledging the existence of different worlds, it is also important to "move the centre" as Ngũgĩ argues both from the implied center of Europe, but also *within* other centers where dominant and elite narratives sustain prominence.[38] In the context of Law and Development, such an approach of provincialization challenges the existence of a grand or general theory of the field. Through provincialization we instead advance looking at knowledge in its situated context,[39] which accounts for the silences and absences that

33 *David Kennedy*, The 'rule of law', political choices, and development common sense, in: Alvaro Santos / David M. Trubek (eds.), The New Law and Economic Development: A Critical Appraisal, Cambridge 2006, p. 153.

34 *Santos*, From University to Pluriversity and Subversity, note 25.

35 *Dipesh Chakrabarty*, Provincializing Europe, Princeton 2007); *Mbembe,* note 11.

36 *Christine E.J. Schwöbel-Patel*, "I'd like to learn what hegemony means", Law and Method 3 (2013), p. 67; *Kennedy,* note 30; *Kai Horsthemke*, The Provincialization of Epistemology: Knowledge and Education in the Age of the Postcolony, on_education Journal for Research and Debate, 20 March 2020, https://www.oneducation.net/no-07_april-2020/the-provincialization-of-epistemology-knowledge-and-education-in-the-age-of-the-postcolony/ (last accessed on 30 July 2022).

37 *Anne Orford*, Citizenship, Sovereignty and Globalisation: Teaching International Law in the Post-Soviet Era, Legal Education Review 6 (1995), https://ler.scholasticahq.com/article/6051-citizenship-sovereignty-and-globalisation-teaching-international-law-in-the-post-soviet-era (last accessed on 30 July 2022); *Priyamvada Gopal*, On Decolonisation and the University, Textual Practice 35 (2021), p. 873.

38 *Ngugi wa Thiong'o*, Moving the Centre: The Struggle for Cultural Freedoms, Oxford 1992.

39 *Donna Haraway*, Situated Knowledges: The Science Question in Feminism and the Privilege of Partial Perspective, Feminist Studies 14 (1988), p. 575.

have persisted on account of epistemic blindness,[40] and further argue for a reappropriation of multiple knowledges, ideas and values as they exist in different worlds.[41]

Through the focus on the provincialization of knowledge, there is an opportunity to first examine the existence of multiple centers from where knowledge is being produced with regard to Law and Development. For instance, one can examine how courses have different focus areas, with some focusing on the implications of globalization, others on the links to social justice, and yet others that study Law and Development through economic lenses. We see these different approaches as reflective of a struggle about making visible knowledge which has been sidelined, while reinforcing its significance to understand the field. Specifically, we would like to look at how the authors in this special issue have contributed to provincializing the field by reflecting on histories, power structures, and recentering knowledge through a focus on the nature of knowledge transfer between the North and the South.

To accomplish provincialization, historicizing the field and the nature of its emergence assumes importance, as this allows us to account for which voices are heard and which are sidelined. As Ordor and Maphosa argue, a one-size-fits-all approach is ineffective and ignorant of the material realities of where it is used. To make this claim, the authors describe how students felt that the substance of Law and Development courses sometimes did not make visible the concerns that were local and critical to their lives. Similarly, Grover and Thiruvengadam also discuss the challenge of building an Indian context to their readings when texts which are seen as seminal to the field emerge from the West and sustain an epistemic hegemony in the construction of the field. However, in both these instances, the approach to historicization is distinct. In the case of Zimbabwe, there is an emphasis on focusing on literature and knowledge that is emerging from the local context, in addition to comparative and global literature. Whereas in the Indian case, there is an emphasis on approaching readings in a comparative perspective and adding an Indian context to readings that are seen as seminal in the field, without necessarily focusing on Indian literature.

Provincialization is also an opportunity to take steps to think critically about the curriculum and cases as they engage with questions of structural inequality, power asymmetries as well as spatial and temporal dimensions. Specifically, this also involves reflecting on the place of the course within the law school: Is there a program on Law and Development, is it seen as a core module or rather as an elective? And what role does the faculty who teach Law and Development have within the larger institution? These factors also determine the hierarchies that exist in terms of how knowledge around Law and

40 *Boaventura de Sousa Santos*, *João Arriscado Nunes* and *Maria Paula Meneses*, Introduction: Opening Up the Canon of Knowledge and Recognition of Difference, in: Boaventura de Sousa Santos (ed.), Another Knowledge is Possible: Beyond Northern Epistemologies, London 2008; *Gurminder K. Bhambra*, *Kerem Nişancıoğlu* and *Dalia Gebrial*, Decolonising the University in 2020, Identities 27 (2020), p. 509.

41 *Sabelo J. Ndlovu-Gatsheni*, Introduction: Seek Ye Epistemic Freedom First, Epistemic Freedom in Africa, New York 2018.

Development is recognized, and how it is received within the politics of a law school and the university. In his paper in this issue, Vandenhole discusses many of these programmatic challenges in building a curriculum on "Sustainable Development and Global Justice". He argues, for instance, that it is not only a problem of intercultural communication between teachers and students who come from different settings. Instead, if we want the curriculum to work, then it needs to account for how knowledge around the course circulates. In this sense, Vandenhole recognizes different factors in decolonizing a course, from reflecting about the terminology that is being used, or problematizing the location of the institution where the course or program is offered, since the location is not a byproduct but a conscious component of how the module is received. Vandenhole further discusses whose perspectives are included in the teaching of a module, and what is deemed to be rigorous. Coutinho and Miola, in approaching programmatic structures, emphasize the importance of developing a legal consciousness among their students through action, rather than offering a conceptual understanding of Law and Development. In doing so, they offer an emphasis on the experiential nature with which concepts emerge in a classroom setting. In their paper, they discuss the value of examining the ways in which law influences and shapes institutions around it, but also how law is reconstituted and affected by the context in which it emerges. As Adebisi argues, if we look at these descriptions from a decolonial standpoint, it requires "difficult conversations about the ways in which history has influenced what the law is, how law is taught, what law is taught, who the law works for, and who the law does not work for".[42] In this sense, provincialization demands asking challenging and uncomfortable questions without any easy or clear answers. It provides the epistemic space to offer multiple ways to address the challenges of power hierarchies inherent in how knowledge is constructed and circulated as demonstrated in the work of the authors.

Finally, provincialization also asks the question about how courses are taught from different locations. For instance, whenever there exists a dialogue between researchers in the North and South, do the conversations and exchanges occur with each other or rather about each other? Eenmaa, Goodwin, Ilkdahl and Santocildes discuss these challenges of building a conversation in a multi-university setting. They argue that such collaboration easily results in privileging certain information over others. But they also acknowledge that for creating a dialogue, it is about positionality as much as it is about the operational logics and logistics of facilitating such conversations. In order to facilitate such conversations, as authors in other papers also describe, varied approaches are required. Some focus on intercultural communication, others focus on situating and problematizing literature in the field, and others on the role that students play as co-creators in challenging and evaluating the suitability of literature that speaks to their own lived experiences.

These aspects of reflecting on the histories of Law and Development, of the internal logics and power structures of the field, and finally the ways in which dialogues can be

42 *Foluke Adebisi*, Decolonising the Law School: Presences, Absences, Silences… and Hope, The Law Teacher 54 (2020), p. 471.

facilitated that remain conscious of the terrains of the field, demonstrate how the authors have negotiated with the contested nature of the field by provincializing it and situating it within their contexts. In the final section, we conclude by arguing that the contestedness of Law and Development knowledge can in fact serve as a productive didactical sensibility when teaching a Law and Development course or program.

E. Conclusion: Contestedness as a (didactical) sensibility

This article, and the special issue as a whole, seek to take stock of the substantive plurality of Law and Development while offering perspectives and potential avenues how to accommodate the contestedness of Law and Development knowledge in the teaching of a course, thereby coming to terms with the lack of an epistemological consensus, and even going one step further of making productive use of this void. In this sense, the contestedness of Law and Development knowledge is no longer simply an observation based on the substantive plurality of the field: Inspired by the reflections of the authors, we argue that contestedness can become a mindset, a (didactical) sensibility which can guide course instructors in every phase of creating, conceptualizing, implementing, and evaluating Law and Development courses or programs. Approached this way, the impact of adopting contestedness as a (didactical) sensibility then goes far beyond the knowledge transfer inside the classroom and can have deep epistemological implications for the field of Law and Development as such. In the following, we explore some facets of what "contestedness as a (didactical) sensibility" may entail. Specifically, we propose that it can be useful to think about the subjects of contestation as part of a broader reflection about the positionality of course instructors and students.

We believe approaching the design and implementation of a course first with a sensibility for the subjects of contestation can provide clarity at times when the substantive plurality of the field may appear overwhelming, incoherent, and confusing. Many of the authors honestly acknowledge this challenge, not just at the beginning of conceptualizing a Law and Development course or program but throughout the teaching, implementation and evaluation process. Contestedness as a (didactical) sensibility thus seeks to provide a normative anchor. However, this anchor is not meant to generalize or homogenize an instructor's approach or content of the course or program. Instead, the exercise of anchoring is highly individual and subjective by asking the course instructor to pause and reflect on their students and their own positionality viz-a-viz the Law and Development course they teach. In short, it argues for acknowledging what Haraway has called situated knowledges in the context of feminist studies.[43]

43 *Haraway*, note 39; Building on Haraway's work, the idea of "situated knowledge" gained wider appeal particularly in the various disciplines of human geography, see *Gillian Rose*, Situating knowledges: positionality, reflexivities and other tactics, Progress in human geography 21.3 (1997), pp. 305–320; *Dragos Simandan*, Revisiting positionality and the thesis of situated knowledges, Dialogues in human geography 9.2 (2019), pp. 129–149.

In light of the contestedness of Law and Development knowledge as illustrated in the diverse struggles and resistances described by the authors, we believe that reflecting about the subjects implicated in the knowledge discussion, disruption, creation and transfer inside the classroom offers a starting point for situating knowledges within such contested epistemic landscapes. Before designing a course or program, the contents it shall cover, the readings it shall include and the methodology it shall adopt, a course instructor may thus ask themselves about their very own experiences and inquire about her students' experiences with and stories of "development". As we learn from the contributors, "development" is not just a contested term in Law and Development scholarship: The particularities of teaching about "development" are also dealt with differently in the Indian, Zimbabwean, or Brazilian context. For example, two authors describe how scholarly and political claims in India about using "law" as a tool to "develop" the country have influenced their approach toward designing and teaching Law and Development. In contrast, the authors writing about teaching in Zimbabwe emphasize the interdependences of questions of "development" with nation building in post-colonial Africa. Adopting yet a different lens, the authors writing about Brazil explore the role and value of law and legal institutions as social phenomena for the purpose of economic development. Notably, such an inquiry into individual and collective stories, and the respective focus they create, may be "intellectually disorienting" as it was described as part of the EDOLAD cooperation. While uncomfortable, reflecting on the subjects of contestation, however, may provide clarity not just about the epistemological frame of reference which one easily takes for granted. It may also shape a course's position toward hegemonic narratives and perspectives (often originating in the Global North). In our previous piece on teaching Law and Development,[44] we have called this the potential to "teach back" in the spirit of what Tuhiwai-Smith has described as the counter-hegemonic exercise of "writing back".[45] Further, focusing on the subjects' experiences with "development" makes it easier to capture how the law is implicated in these experiences and stories. From an epistemic perspective, this allows us to link "law" and "development" in an intuitive yet deeply relevant manner, which then can be contrasted to how scholars of Law and Development over the last decades have approached their interrelation. The contributions about teaching Law and Development in India and Zimbabwe, for example, indeed describe the objective of contrasting specific narratives, dominant at a certain point in time, with marginalized Southern or local voices and perspectives. As described in the Zimbabwean example, this holds the potential to generate a sense of optimism and ownership for both the teacher as well as the students. Finally, adopting contestedness as a (didactical) sensibility is inspired by a deep interest in and critical awareness about the *effects of the law in practice*, about its hegemonic

44 *De Souza* and *Dollmaier*, note 32, p. 4.

45 *Smith*, note 11.

force and its potential as an instrument of emancipation.[46] Focusing on the effects of law in the everyday lives of people thus shifts the focus toward actors which are affected by development (and law), and the voices of resistance they provide. Understood this way, and also illustrated in the contributions, the focus lies on the agency of the actors who are affected by development - an agency which covers both the physical element of resistance as well as the epistemological element of counter-narratives and situated knowledges.

In conclusion, adopting contestedness as a (didactical) sensibility seeks to proactively embrace the highly individual and subjective dimension of the struggle of designing and implementing a course or a program about a field as plural and contested as Law and Development. Such a sensibility is critically aware of what Haraway has described as "hav[ing] *simultaneously* an account of radical historical contingency for all knowledge claims and knowing subjects, a critical practice for recognizing our own 'semiotic technologies' for making meanings, *and* a no-nonsense commitment to faithful accounts of a 'real' world".[47] We believe that embracing positionality – and the acknowledgement of situated knowledges – allows us to operationalize the notion of provincialization inside the classroom. Most importantly, bold and proactive positionality makes it possible to work against hegemonic and universalizing attempts of knowledge production and knowledge transfer by "avoiding false neutrality and universality"[48] in Law and Development – a field which is inherently defined by the lack of both neutrality and universality. In the end, we believe embracing positionality will stimulate the discourse inside the classroom as well as in scholarship and practice and may thus allow us to make productive use of contested and situated Law and Development knowledges. The authors of this special issue have contributed significantly in this regard and we hope the following articles might inspire others – teachers, scholars, and practitioners alike – to follow their example.

46 *Isabel Feichnter*, Critical Scholarship and Responsible Practice of International Law. How Can the Two be Reconciled?, Leiden Journal of International Law 29.4 (2016), pp. 979–1000; *Duncan Kennedy*, The stakes of law, or Hale and Foucault, Legal Studies Forum 15 (1991), p. 327.

47 *Haraway*, note 39, p. 579.

48 *Rose*, note 43, p. 306.