Toward a Transnational Curriculum? Reflections on Possibilities for Future Teaching in Legal Education

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Abstract

Transnationalization is a challenge against orthodox thinking in legal education. On the one hand, it brings new actors and structures into play, and on the other hand, it is hard to identify the transnationalization process through a systemic order. In contemporary legal scholarship, it is becoming more and more evident that conventional methodologies of the legal discipline are not capable to capture the new structures and actors. Against this background, introduction of this phenomenon into legal education requires the development of new didactic approaches. The main goal of this article is to contribute to enriching individual experiences in a transnationalized legal world by seeking alternative teaching and learning methods in legal education.

I. Introduction

Today, the transnational law discourse involves a vast literature on the impacts of new sort of societal relations on the legal discipline. At the same time, it poses a challenge against legal educators who largely cling to conventional categorizations of law. As will be discussed below, transnationalization of law reflects a complex reconstruction of legal actors and institutions. To have a grasp of this process requires not only updating the knowledge of the field, but also rethinking the methods for teaching such complex developments.

For this purpose, this text shall proceed by introducing an overview of transnational law, as a relatively new category in the judicial field. Transnational law, as a new category, has been identified and employed by legal scholars more than legal practitioners. Evidently, this creates a tension between two different perceptions of law, and this tension is in fact the preeminent motive of this text. This text will go after the great enthusiasm of the "transnational legal scholarship" and deal with a missing brick of legal education as this kind of scholarship unfolds in a generic way. Therefore, the main part of this text is devoted to the question how legal education can be reconstructed in view of the growing

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transnationalization of legal matters. The text will remain loyal to the idea that "the truth of law" has undergone a profound transformation through transnationalization; and along with the great exertion to build a theory of transnational law, legal education needs a reform to reflect this dynamic situation. Four different dimensions of legal education – students, content, methods and teaching media - will be distinguished and analyzed how they could be transnationalized. In the final section, we will introduce the Scholarship of Teaching and Learning as a framework for further inquiries into (potential) practices of transnational legal education.

II. How Does "Transnational Law" Challenge Conventional Understanding of Law?

1. Theoretical Insights into a Lesser-Known Area

Transnational law is a challenge against the traditional perception of law through the dichotomies of domestic-international law and public-private law. As such it has appeared as a different conceptual framework. Transnational law has been found in the agenda of contemporary legal scholars in various contexts since its first use by Justice Jessup, who employed this concept in his lectures at Yale University. *Jessup* defined transnational law, as a new category of law beyond domestic and international realms. He envisioned it

> "*to include all law which regulates actions or events that transcend national frontiers. Both public and private international law are included, as are other rules which do not wholly fit into such standard categories*".[3]

For *Jessup*, transnational law was an idea that broke down the conventional categories of international and domestic law, as well as private and public law.[4] Since then, transnational law has become a complementary and disputed category in interdisciplinary research on globalization and law.[5]

Today it is used in different meanings, but still it remains an ambiguous concept to a great extent. Transnational law implies understanding situations that involve individuals, corporations, non-governmental organizations, states, organizations of states and other groups beyond national borders; thereby it carries out a function to reflect a relational rationality that cannot be revealed through the modern understanding of law, since it basically refers to the formal law produced within sovereign

[3] Phillip C Jessup, *Transnational Law* (Yale University Press 1950) 2.
[4] Harold Hongju Koh, 'The 1994 Roscoe Pound Lecture: Transnational Legal Process' (1996) 75 Nebraska Law Review 184.
[5] Peer Zumbansen, 'Transnational Law' in Jan M Smits (ed), *Elgar Encyclopedia of Comparative Law* (Edward Elgar 2006) 738.

states. *Friedman* affirms that transnational law may appear in two forms: As the norms that transcend national laws and displace them, and as norms and practices that have force in more than one jurisdiction "without any transcendent authority."[6] Currently transnationalized realms cover a broad range of issues. Some areas of law have a transnational character *per se*. Business law, international trade law, *lex mercatoria* and human rights are the most notable ones.[7]

Transnational law has a lot to do with the increasingly globalized practice of law.[8] The global economy is the driving force of the convergence and harmonization of different legal norms and practices.[9] As such transnational law has increasingly become influential in identifying local legal phenomena.[10] Moreover, pluralism of legal societies arose as a commonality of all societies in the postcolonial period. Transnational law appeared as the bearer of this plurality by giving rise to at least one component of such plurality.[11]

Further, some others suggest the idea that transnational law has added a new dimension to the discourse on the efficiency of law. While *L.M. Friedman* opines that transnational law denotes only the legal systems with enforcement power, *Koh* takes a more nuanced approach and claims that transnational legal process has a key role in understanding the issue of compliance with international law.[12] According to *Koh*, the dynamic process of transnational law trivializes the debate on the enforcement force of international law as well as the legal character of international law. Transnational law is a non-traditional domain, where various actors other than states come into play, and the traditional dichotomies of national-international and public-private lose meaning to a great extent.[13]

2. Challenges to the Conventional Legal Scholarship

In view of such theoretical contributions that were addressed above briefly, the question may arise as to what extent the growing transnationalization challenges the legal discipline. To put it differently, what are the most pressing questions posed to law scholars from the realm of transnational law? We may refer to particularly the three essential

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[6] Lawrence M Friedman, 'Borders: On the Emerging Sociology of Transnational Law' (1996) 32 Stanford Journal of International Law 69.
[7] ibid 69–70.
[8] ibid 65.
[9] ibid 77.
[10] Sally Engle Merry, 'Anthropology, Law, and Transnational Processes' (1992) 21 Annual Review of Anthropology 357, 357.
[11] ibid 358.
[12] Koh (n 4) 183.
[13] ibid 184.

dimensions of transnationalization in that regard: Transnational law making, transnational legal culture and transnational justice.

As to transnational law making, transnational law involves the legal facts about the transnational legal entities which emanate as transregulatory regimes either regionally or sectorally, or "private regimes", "private legal systems", and "private governance regimes" as used by different authors. Two types of such regimes may be referred to at this point. One sort constitutes private governance mechanisms which should perform the three powers of legislating, adjudicating and enforcing norms in a nation state within an effective regime. The second type, unlike the first one, does not hold decision making mechanisms, yet they set up the "grundnorms" for the first group of transregulatory regimes in a bottom-up manner. ICANN and internet governance as well as sports law can be cited as major examples of the former.[14] The latter can be exemplified by the bottom-up relationship between Berne Union and World Trade Organization.[15]

A transnational legal culture is in the making through the growing communication between legal professionals. The communication networks of judges are noteworthy on the ground that such networks also facilitate the transmission of ideas between various national legal systems. They are indeed a reflection of the segregation of the contemporary states and represent a hybrid form of official operation of states and communication of individuals.[16]

Above all, "transnational justice" is maybe the most pressing question that arises out of transnational legal matters. Impunity and the lack of international liability mechanisms give rise to injustice in some remarkable fields of transnational law, including international subcontracting and environmental matters. Some well-known cases of these fields prove that globalization has left important questions behind on universal claim of human rights and integrated scheme of procedural laws. A striking example is the never-ending transnational struggle for the victims of Bhopal Disaster in 1984 and Rana Plaza Disaster of 2013. Such catastrophes demonstrate that the lack of international liability for international subcontracting mechanisms.[17]

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[14] Karl-Heinz Ladeur and Lars Viellechner, 'Die Transnationale Expansion Staatlicher Grundrechte . Zur Konstitutionalisierung Globaler Privatrechtsregimes' (2008) 46 Archiv des Völkerrechts 42.

[15] Janet Levit, 'A Cosmopolitan View of Bottom-Up Transnational Lawmaking: The Case of Export Credit Insurance' (2006) 51 Wayne Law Review 1193.

[16] Anne-Marie Slaughter, *A New World Order* (Princeton University Press 2005).

[17] Stephen Zavestoski, 'The Struggle for Justice in Bhopal: A New/Old Breed of Transnational Social Movement' (2009) 9 Global Social Policy 383; Dina M Siddiqi, 'Starving for Justice: Bangladeshi Garment Workers in a "Post-Rana Plaza" World' (2015) 87 International Labor and Working-Class History 165.

It is of note that such challenges against "orthodoxies" of the legal disciplines regarding the "truth of law" have already found resonance in legal scholarship. The contemporary legal scholarship has been encompassed by a number of streams that seek alternative approaches to such legal matters. Critical studies, feminism, law and economics can be held up as examples thereof. As *Zumbansen* argues, transnational law is to be mentioned among such new streams to grasp the truth of contemporary law.[18]

3. Challenges to the Conventional Legal Education

A noteworthy call from scholars has already risen demanding that legal education needs to be reconstructed by giving more credit to transnational legal processes and training lawyers as global citizens.[19] This call has not yet seen a widescale positive response from the law schools throughout the world. This is so, mainly because alongside these reformist voices, a great deal of scholars still contend that lawyers mainly deal with domestic matters, and global matters are "merely a matter of translation."[20] To put it differently, we are still far from a paradigm shift in this field.

The main argument for transnational legal education is, that the world has changed and so should the law school pedagogy. Otherwise, our students will be left alone with the task to define their professional role and to accomplish legal tasks in a "new world order".[21] As *Arjona* puts it, "the dominant model of legal theory and legal education, namely state-centred positivism, has the flair of the 19th century. It assumes a conception of knowledge that is based on 19th century epistemology, but that does not hold true anymore, and it works with a conception of the state that was at its peak during the 19th century, but that does not hold true anymore either."[22] *Klabbers* argues that as the traditional curriculum of legal education reflects the fundamental rules of the "laissez-faire capitalism" of the late nineteenth century, the current curriculum needs to be brought into conformity with the "ground rules of global capitalism" including the new forms of legal norms.[23] Law schools cling to old traditions even though the world has changed and "[a]ny assessment of current

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[18] Zumbansen (n 5) 750.

[19] Eve Darian-Smith, "The Crisis in Legal Education: Embracing Ethnographic Approaches to Law", (November 25, 2015). TLI Think! Paper 02/2015. Available at SSRN: http://ssrn.com/abstract=2696806

[20] Claudio Grossman, "Building the World Community Through Legal Education" in *The Internationalization of Law and Legal Education*, ed. by Jan Klabbers and Mortimer Sellers, Springer, 2008, 22.

[21] Slaughter (n 16).

[22] César Arjona, 'Transnational Law as an Excuse: How teaching law without the state makes legal education better'. ESADE Working Paper 219 48.

[23] Jan Klabbers, 'Reflections on Globalization and University Life', *The Internationalization of Law and Legal Education* (Springer 2008).

developments in core fields of a law school curriculum will inevitably be informed by 'outside' influences of international, transnational and comparative law."[24] Transnational legal education is an asset, because students will not be capable to play a crucial role in a "Global Bukowina" without skills in transnational legal thinking.[25] It will be argued that legal education has to facilitate "to move across jurisdictions, across specializations, and to move across employment opportunities".[26]

a) Structural Reform Projects

On the other hand, some remarkable developments have already come about in transnationalizing legal education. Some law schools declared themselves as "global law schools", while some adopted global law curriculum, in addition to a recent fact that many new ideas appeared regarding transnationalization of law education and also that new law periodicals arose with the core idea of law and globalization.[27] Of these, as a well-known example, McGill University incorporated transnationalism into legal curriculum in order to "create cosmopolitan jurists".[28] The transsystemic approach adopted in McGill has been a "peaceful cohabitation" of different legal streams rather than an active dialogue between them.[29] Transsystemic study of law is different from comparative law in that regard:

> "*To be truly transsystemic is to examine the similarities and differences that do exist throughout legal traditions and then to question and seek to understand them in light of historical, methodological, societal, philosophical, economic, and any other perspectives that lend themselves to that particular issue. Moreover, to be transsystemic is to frame and analyze legal issues within the larger concepts of the traditions in question*."[30]

In this system, apart from comparative law perspectives, students are expected to deal with a "variety of perspectives and a contextual analysis of legal problems"[31]. As it triggers a meta-cognitive process for studying law, the McGill model appears as a promising model for further reconstruction of law curriculum in the rest of the world. Apart from the McGill model, some further attempts of networking between law schools,

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[24] Zumbansen (n 5) 748.
[25] Gunther Teubner, 'Global Bukowina: Legal Pluralism in the World-Society' in Gunther Teubner (ed), *Global law without a state* (Dartmouth 1997).
[26] Klabbers (n 23) 7.
[27] Harry Arthurs, 'Law and Learning in an Era of Globalization' (2009) 10 German Law Journal 631.
[28] Rosalie Jukier. "Transnationalizing the Legal Curriculum: How to Teach What We Live", *Journal of Legal Education*, 56(2) (June 2006), 174
[29] Nicholas Kasirer, "Bijuralism in Law's Empire and in Law's Cosmos", *Journal of Legal Education*, 52(1-2) (2002), 29
[30] Jukier (n 28) 180
[31] ibid. 177.

such as the Law Schools Global League, and the European-American Consortium for Legal Education could be mentioned. Beyond these networks, the LLB program of Global Law at the University of Tilburg is also worth to mention, as it has introduced a transnational curriculum for legal education in the European continent.

However such attempts have not been free of criticism. A remarkable critique against this new trend in legal education is that it has risen as an "elite phenomenon", as it has so far been employed in accordance for interests of a privileged few.[32] In addition, some further critiques highlight the nature of globalization relying upon an inequality in favor of American mindsets that exclude a true engagement with other actors of globalization.[33]

b) A New Way of Teaching

As is seen, the most notable attempts to adapt the legal education system to the growing transnationalization rather deal with structural problems, and thereby they seek solutions to the current issues through structural points. However, these attempts ignore the fact that transnationalization of legal education has also to do with the specific dynamics of the relevant processes, and a notable measure to be taken would be dealing with "the actors." Therefore, such a measure would require focusing on the "teaching" process instead of the structures.

In this respect, we agree with those who suggest that a total mental transformation is required in law education in parallel with the new methodological approaches in legal theory. Anthropological and cultural contexts of law and bottom-up grounded approaches come into prominence at this juncture. [34] From this perspective, law needs to be studied beyond rules and in a cultural context to understand differences between legal systems. Ethnographic approaches are suggested to be helpful in this regard, as they take seriously the perspectives of ordinary people and their interaction, engagement, and influence on legal processes, as well as how legal processes may be affecting them.[35] The prominent issues in this perspective are to determine the structure of legal courses to bridge different legal traditions and legal materials as sources of law.[36]

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[32] Simon Chesterman, "Three Conceptions The Evolution of Legal Education: Internationalizing, Transnationalizing, Globalization", *German Law Journal*, 10(7) 2009, 886

[33] ibid. 887

[34] Darian-Smith (n 19) 9.

[35] ibid. 14

[36] Kirsten Anker, "Teaching 'Indigenous Peoples and the Law': Whose Law?", *Alternative Law Journal*, 33(3) (2008), 133.

In other words, our approach opines that an actor-based perspective is necessary to unfold the distinctive dynamics of legal education and the transnationalization process to a great extent. Thus, the consideration of the subjects of teaching as the subjects of transnational law can shed light to the "transcendental" aspects of transnational law. Such an approach may not only provide us with the chance to deal with the broader environment of law, but also new horizons for the democratization of legal education and its reconstruction.

III. Dimensions of Transnational Legal Education

The aim of the following part is to outline ideas how transnational law could be integrated into legal education. The different dimensions of educational settings (actors, content, methods, media) will be discussed and it will be shown how transnational legal thinking might become relevant in each of them.

With regard to the influence of globalisation on legal education *Twining* suggests that every law professor should ask herself: "What is the relevance of 'globalisation' to my subject or this course or specific topic?"[37] While the content admittedly plays a crucial role, we contend that this catalogue should be extended. From educational literature can be learned that the content is only one part of educational settings. This is especially important, because law is "made" in the classroom and, as a consequence, the performance of the content should also be considered.[38] Therefore, we suggest an even broader perspective that comprises actors, content, methods and media.

1. Students

Firstly, the role of students in transnational legal education shall be discussed. In the context of higher education, internationalization has long been understood as student mobility. Students are sent abroad, so they have the opportunity to experience studying abroad, to be part of a different educational system and a different legal culture. The most popular student exchange program in Europe is the Erasmus program. But the number of students taking part in the program is quite disappointing: Considering that between 2014-2020, the program only covers 3.7% of young people in the EU, it is obvious that higher education cannot (only) be internationalized by sending students abroad.[39] Even if the number of exchange students should be increased – the former President of the

[37] William Twining, *Globalisation and Legal Scholarship* (Tilburg Law Lectures Series, Montesquieu seminars vol 4, Wolf Legal Publishers 2009) 21.
[38] Elisabeth Mertz, 'Teaching Lawyers the Language of Law: Legal Anthropological Translations' (2000) 34(1) John Marshall Law Review 91.
[39] European Commission, 'Strengthening European Identity through Education and Culture' (2017) <https://ec.europa.eu/info/sites/info/files/leaders-working-lunch-mobility_en.pdf> accessed 27 February 2021.

European Commission, Jean Claude Juncker suggested that the number of young people in the EU participating in Erasmus+ should be doubled (from 3.7% to 7.5%) in the period 2021-2027– this would not have a broad impact.[40] Another problem is, that although the experience abroad has a lasting impact on most exchange students, the degree to which their presence changes lectures or seminars in the host institutions remains rather doubtful. Often, they are mere outside spectators. There is no space in classroom to share their background and to articulate their experience of difference.

At the end of the 1990s, in reaction to the focus on Erasmus exchanges, a movement that called for "Internationalisation at Home" evolved.[41] Instead of internationalizing *students* the aim of the "Internationalisation at Home"-movement is to internationalize *higher education*. *Knight's* commonly accepted working definition for internationalization of higher education now reads as follows: "the intentional process of integrating an international, intercultural or global dimension into the purpose, functions and delivery of post-secondary education, in order to enhance the quality of education and research for all students and staff, and to make a meaningful contribution to society".[42] It reflects a more inclusive, less elitist approach. We support this idea. Transnationalization of the legal curriculum does not depend on exchange students or guest lecturers from abroad. While these may support the transnationalization, we encourage academic staff to rethink and transnationalize their teaching, especially by embarking on a quest to raise the treasures of classroom diversity.[43] While it is true that there is a representation gap in many law schools, we are convinced that the audience represents a transnational dimension that "sits" in the classroom without lecturers taking note of it.[44]

2. Content

Turning to the content of legal education, what does it mean to teach "transnational law"? We hold that "transnational law" should not be understood as a new subject, but rather as rethinking one's specialized areas of expertise and teaching subjects. As already mentioned, *Twining* suggests that globalization requires legal academics to critically exam

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[40] ibid.
[41] Bernd Wächter, 'An Introduction: Internationalisation at Home in Context' (2003) 7(1) Journal of Studies in International Education 5; Hans de Wit, 'Internationalization in Higher Education, a Critical Review' (2019) 12(3) SFU Educational Review 9.
[42] Hans de Wit and others, *Internationalisation of Higher Education* (European Parliament 2015) 29.
[43] Matthias Otten, 'Intercultural Learning and Diversity in Higher Education' (2003) 7(1) Journal of Studies in International Education 12.
[44] Faisal Bhaba, 'Towards a Pedagogy of Diversity in Legal Education' (2014) 52(1) Osgoode Hall Law Journal 59.

their own working assumptions and to ask whether they are under serious challenge. He enlists a number of assumptions that are widespread in the Western legal culture but might be problematic in view of globalization. Inter alia, the list contains the following assumptions:

> "a) that law consists of two principal kinds of ordering: municipal state law and public international law (classically conceived as ordering the relations between states) ("the Westphalian duo");
> (b) that nation-states, societies, and legal systems are very largely closed, self-contained entities that can be studied in isolation; (…)
> (f) that the main subject-matters of the discipline of law are ideas and norms rather than the empirical study of social facts".[45]

We want to take a closer look at these aspects by examining the importance of real-world cases and the possibilities to integrate the concept of legal pluralism into one's teaching.

a) Real-world Cases

Instead of using artificial textbook cases and "hypos", transnational legal education is meant to address legal issues that arise in the real world. Or how *Zumbansen* puts it: "Why not confront students with the reality and complexity of the 'cases' unfolding right before our eyes?"[46] An inquiry into real world scenarios can be read as an attempt to teach "law in action" instead of "law in books" in legal education.[47]

There are numerous examples for real world scenarios that benefit from transnational legal thinking – and the Corona pandemic makes them even more visible. For example, the Corona outbreak in the German slaughterhouse "Tönnies" draws the attention to the legal arrangements on which the meat production is based. According to unions, up to two thirds of the staff work for subcontractors (or subcontractors of subcontractors, and so on). The subcontractors recruit them mainly from Poland, Romania and Bulgaria, partly as posted workers. The working and living conditions have been heavily criticized for many years. One of the workers at "Tönnies" describes the slaughterhouse with its dubious subcontracting networks as a state within the state.[48] But now, as the outbreak leads to a lockdown of two regional districts, questions of legal liability and the demand for new legal regulations become pressing: Is "Tönnies" responsible for the workers employed by subcontractors? Is "Tönnies" liable for the consequences outside its premises? And are the

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[45] Twining (n 37) 39.
[46] Peer Zumbansen, 'What Lies Before, Behind and Beneath a Case? Five Minutes on Transnational Lawyering and the Consequences for Legal Education' [2013] Osgoode CLPE Research Paper No 62/2013, 7.
[47] For Roscoe Pound's classical categorization, Roscoe Pound, 'Law in Books and Law in Action' (1910) 44 American Law Review 12.
[48] Lina Verschwele, '"Ein Staat im Staat"' *Süddeutsche.de* <https://www.sueddeutsche.de/wirtschaft/toennies-corona-rumaenen-covid-1.4943416> accessed 27 February 2021.

workers covered by German public health insurances or occupational health insurances, if they are forced to stay in quarantine?

When we try to grasp what is happening "out there", in the transnational realm, we are often faced with constellations that cannot easily be described, categorized and pragmatically solved. We are faced with different layers of law and courts that compete to have the final say. Traditional legal concepts often do not suffice to find a path through the thicket of potentially relevant information. Therefore, *Zumbansen* suggests to capture law in its transformational state through a focus on actors, norms, and processes: „Norms allows us to study, from a historical-comparative perspective, the genealogies and contestations relating to law, rules, orders, legal pluralism, custom, and social norms. Actors illuminate the trajectories and conflicts relating to state, society, community, and organization. (…) processes illuminate the dynamics of institutional evolution in the complex interplay of norms and actors today, reflecting engagement, interaction, contestation, resistance, opposition, and voice."[49] Another approach to address the different layers of law and their interactions is to turn to concepts of legal pluralism.

b) Legal Pluralism

Legal pluralism can be described as "a situation in which two or more legal systems coexist in the same social field"[50] or as "an interlocking web of jurisdictional assertions by state, international, and non-state normative communities"[51]. The co-existence of discrete normative systems in the same time-space context, raises question for legal scholars as to which normative orders, social practices or social norms in addition to state law exist and impact their research fields.[52] In *Arjona's* view, looking at transnational law is an invitation to look at legal phenomena through the eyes of legal pluralism and he advocates the idea to include non-state forms of normativity in legal education.[53] *Twining* aptly asks, "*Can a teacher of municipal law in UK or the Netherlands concerned with housing finance, or consumer credit, or small businesses today justifiably ignore Islamic banking and finance?*"[54] Such questions can be multiplied.

[49] Peer Zumbansen, 'Lochner Disembedded: The Anxieties of Law in a Global Context' (2013) 20(1) Indiana Journal of Global Legal Studies 29, 57.
[50] Sally E Merry, 'Legal Pluralism' (1988) 22(5) Law & Society Review 869, 870.
[51] Paul S Berman, 'Global Legal Pluralism' (2007) 80 Southern California Law Review 1155-1237, 1159.
[52] Twining (n 37), 42
[53] Arjona (n 22) 15.
[54] Twining (n 37), 40.

To take a concrete example: *Kislowicz* describes how he addresses questions of legal pluralism in his constitutional law class on religious freedom.[55] By analyzing case law of the Supreme Court of Canada and the testimony and affidavits presented to the court, he encourages students to discuss the following aspects:

- The use of language: "How do we know when we are looking at a law, and when we are not? Are/can religious obligations be 'legal'? When litigants speak of 'religious law', how is this different from when people just use the term 'law' on its own?"[56]
- Social ordering: If law is understood functionally as social ordering – does the "religious law" fulfil such a function? In how far is state law more effective in changing or prohibiting a certain behavior?
- Interpretation and interpretive communities: Is there interpretive disagreement within the interpretive community? Which facts matter for the court and which facts matter for the interpretive community?
- Hierarchies of normative traditions: How does the court establish a hierarchy?
- Normative traditions as lenses for one another: In which way do the normative traditions make sense of each other, and explain themselves to one another?

Kislowicz is convinced that if we believe in legal pluralism or not, it could be worthwhile to reflect on the relationships between law, the state and all kinds of normative communities.[57] The example of his constitutional law class shows, that questions of legal pluralism can be addressed in traditional law courses. The competences acquired thereby can later be transferred to other spheres of law.

3. Methods

There are no specific teaching methods that guarantee the transnationalization of legal education. However, it is clear, that to transnationalize legal education means to a certain extent "disrupting the 'science of law' approach (…) that mutes lived experiences and emphasizes abstractions over realities".[58] Teaching methods are needed which give room to exchange of experiences and ideas and to engage with problems that cannot be solved easily but call for new approaches and

[55] Howard Kislowicz, 'Teaching Religious Freedom as Legal Pluralism in Canadian Constitutional Law Classes' [2015] Canadian Legal Educational Annual Review 27.
[56] ibid 40.
[57] ibid 33.
[58] Bhaba (n 44), 97. I use the term "science of law" to embrace both the Langdellian case method practiced in law schools across Canada and the United States and the dogmatic method of legal education based on statutory law predominant in continental Europe.

conceptualizations. To name but a few: buzz groups[59], putting 'faces to the cases' (e.g. interactions with guests from the 'real world'), problem-based learning and learning by doing law (e.g. legal clinics). All of these methods expand the spectrum of what can be said in legal classrooms and thereby stretch the conventional understanding of law.[60] They especially emphasize experiential learning and thus create a sense for the situatedness of legal knowledge.

4. Teaching Media

There are only few textbooks available that address transnational legal education.[61] In transnational legal education, professors will probably often have to develop their own materials. It should also be kept in mind, that the striking point is that transnational law is a dynamic and living fact, and therefore, such a living legal system can hardly be understood by examining legal periodicals or legal curricula of that legal system.[62] However, legal scholars, in general, stick to formal legal texts and ignore the living law for a number of reasons: "The texts stress rationality, order, and system. (…) Orthodox legal scholarship is the scholarship of texts."[63] However, as broadly accepted by the transnational law scholars, the traditional methods based on "texts" cannot suffice to see a clear view of transnational law. To introduce real-world cases to students, it will be useful to integrate newspaper articles, television reports or radio broadcasts. It might also be stimulating to integrate extra-legal sources.[64] The emergency digitalization of higher education which became necessary during the Corona pandemic, opens up new possibilities. Online and blended learning scenarios have the potential for collaborations beyond borders.[65] But as student mobility not necessarily leads to a transnationalization of the curriculum, the internet is no guarantee either; a cyber university is not by definition transnational.[66] Transnationalization needs to be achieved through didactical design.

IV. Conclusion

Finally, we want to emphasize that transnational legal education is an ongoing project that needs a transnational community of legal educators

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[59] See for example Patricia L Easteal, 'Teaching about the Nexus between Law and Society: From Pedagogy to Andragogy' (2008) 18(1&2) Legal Education Review 163.
[60] Mertz (n 38).
[61] Darian-Smith (n 19).
[62] Friedman (n 6), 74.
[63] ibid 76
[64] Sandra K Miller and Larry A DiMatteo, 'Law in Context: Teaching Legal Studies Through the Lens of Extra-Legal Sources' (2012) 29(2) Journal of Legal Studies Education 155.
[65] Elisa Bruhn, *Virtual Internationalization in Higher Education* (wbv 2020); Michael Joris, Christiaan van den Berg and Stefaan van Ryssen, 'Home, but not Alone: Information and Communication Technology and Internationalisation at Home' (2003) 7(1) Journal of Studies in International Education 94.
[66] To take up a phrase by Wächter (n 41), 10.

to develop it further. Thus transnational law and transnational legal education are just emerging and do not propose a specific content, but rather call for a new way of thinking about law, an approach which encourages collaborative knowledge building about law teaching and learning is needed that is open to different legal and educational traditions. We think that the Scholarship of Teaching and Learning (SoTL) could be a fruitful in this regard. The basic idea is to encourage lecturers to engage in sustained inquiry into their teaching practice and their students' learning.[67] SoTL should not be understood as a program transferring teaching skills, but as an invitation to question teaching and learning traditions and practices in higher education. As *Roxå/Olsson/Mårtensson* point out, lecturers often stick to the traditions they find in certain institutions and often only exchange their ideas about teaching and learning with a handful of their colleagues.[68] SoTL can be used as a tool for change – with regard to individuals as well as institutions. New networks can be established, "problems" in teaching become "reasons for inquiry" and ideas about teaching and learning are questioned and discussed in public. The ideas presented in this article are to be understood as a contribution to this debate that claims to be a significant alternative.

[67] Pat Hutchings and Lee S Shulman, 'The Scholarship of Teaching: New Elaborations, New Developments' (1999) 31(5) Change: The Magazine of Higher Learning 10.
[68] T. Roxa, T. Olsson and K. Martensson, 'Appropriate Use of Theory in the Scholarship of Teaching and Learning as a Strategy for Institutional Development' (2008) 7(3) Arts and Humanities in Higher Education 276.