

Knowledge Practices and Learning Challenges in Legal Education

Examining students' collaborative work in two undergraduate
courses

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Preface

This thesis reflects my interest in teaching and learning in the context of higher education. My curiosity to know more about what it means for students to take part in—for them—new knowledge communities and how such participation can be facilitated in educational contexts has grown stronger over the years, as I have been involved with faculty development work at the University of Oslo (UiO) and at the University of South Eastern Norway (USN). In my current PhD project, I was allowed to pursue this interest by exploring colloquium group work within undergraduate courses in legal education.

This thesis builds on dataset from two course contexts – one introductory course, and a second year course in international law. The data that relates to the students first semester was organised and collected as a part of a larger research project—Horizontal Governance and Learning Dynamics in Higher Education (Horizon). I was fortunate to engage in the data collection within this project and this has been an invaluable part of my introduction to conduct research on education in the field of law. It also inspired me to explore law students' collaborative work in their second year. I would like to express my gratitude to the students at the Faculty of Law (UiO) for inviting me and my camera into your group work and to the law professors for participating in the project. Without your investment in the project, this thesis would not have been completed. I thank my colleagues at the Department of Education, UiO, participating in the Horizon Project, representatives from the projects' reference group, and members of the research group ExCID (currently HEDWORK) for fruitful discussions and support. I warmly thank to Professor Karen Jensen for being a discussion partner throughout the process and for including me as a cowriter on an article early in the Horizon-project.

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I express my gratitude for my experiences at NATED (National Graduate School in Educational Research). Thanks to my fellow PhD candidates in the fabulous Track 4 on Higher Education and Professional Learning for tons of fun and for making the craft of research visible: To Dagrøn Aarø Engen, Eli Tronsmo, Ingunn Ness, Jens Breivik, Katrine Nesje, Kjetil Egelanddal, Kristine Ludvigsen, and Rachel Sweetman. This track has been an important part of my life as a PhD candidate, and I look forward to future collaboration. A special thanks to Eli, my “roommate” at Iped, for talks, Hovseterhoney, and cultural experiences.

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Sammendrag

Knowledge Practices and Learning Challenges in Legal Education –Examining students’ collaborative work in two undergraduate courses

Høyere utdanning har som sin viktigste funksjon å introdusere studenter til et – for dem – nytt kunnskapsfelt. Hvordan en slik introduksjon kan tilrettelegges for, og hva den innebærer, har imidlertid endret seg over tid. Vi ser i dag en økende satsning på studentaktive tilnærminger og arbeidsformer i høyere utdanning, der man i utvikling av emner og programmer legger opp til at studentene skal lære gjennom utforskning, problemløsning og samarbeid. Man antar at slike utforskende aktiviteter gir studenter muligheter til å utøve sentrale arbeidsmåter i faget og aktivt bearbeide nytt fagstoff, noe som er dokumentert viktig for læring. Vi er også vitne til endringer i profesjonsfeltet, der blant annet prosesser som internasjonalisering og digitalisering er med på å generere nye problemkomplekser som profesjonsutøvere må håndtere, og som utfordrer eksisterende praksiser. Når forventninger til deltakelse endres, er det behov for å studere studenters deltakelse i kunnskapspraksiser. Denne avhandlingen har som overordnet målsetting å bidra til en rikere forståelse av hva det betyr for studenter å ta del i et nytt kunnskapsfelt og få en dypere innsikt i de utfordringer studenter står overfor i den forbindelse. Jeg har nærmet meg denne målsettingen gjennom å undersøke *kunnskapspraksiser og læringsutfordringer* slik de utfolder seg i grupper av *jusstudenter* som samarbeider om å utforske fagspesifikke problemstillinger. For å undersøke dette har jeg gått inn i to kurskontekster fra første- og andre studieår.

I den juridiske profesjonen er skriftlige kilder sentrale både for å opprettholde og utvikle kunnskap i profesjonen, og disse er derfor viktige ressurser for jurister i deres daglige virke. Til tross for tekstenes sentrale rolle for jurister, er det få studier som har undersøkt i dybden hvilke kunnskapspraksiser som er i spill når studenter utforsker problemstillinger *med* tekster samt hvilke utfordringer de står overfor og må håndtere når de tar del i slike praksiser. I avhandlingen bygger jeg på grunnantakelser og begreper fra sosiokulturell læringsteori og sosial praksisteori, og fremhever læring som deltakelse i historisk utviklede og medierte kunnskapspraksiser. Kunnskapspraksiser forstås her som anerkjente måter å «gjøre» kunnskap på, slik som å ramme inn spørsmål på relevante måter og utforske problemer i tråd med normer og konvensjoner. Først spør jeg:

1) Hva karakteriserer kunnskapspraksiser studentene introduseres for i lavere grads jusutdanning?

2) Hvilke læringsutfordringer møter studentene når de deltar i disse praksisene?

For å bidra til økt innsikt i hva det betyr å delta i kunnskapspraksiser i møte med jus som kunnskapsfelt, trenger vi analytiske begreper som gir muligheter for å undersøke hvordan studenter går fram når de avgrensner problemstillinger og anvender fagressurser i nye sammenhenger. For å sammenfatte og syntetisere delstudiene i avhandlingen har jeg benyttet meg av følgende analysebegreper: *epistemic space*, *appropriation*, *assembling* og *navigation*. Avhandlingens tredje forskningsspørsmål er 3) Hvordan kan avhandlingens analysebegreper bidra til å skape en bedre forståelse av studentenes begynnende deltakelse i kunnskapspraksiser i jus?

Avhandlingen bygger på analyser av kvalitative data fra to kurskontekster; Et introduksjonskurs og et andre års kurs i internasjonal rett. For å undersøke forskningsspørsmålene, følger jeg studentenes interaksjon i gruppearbeid, og med særlig oppmerksomhet rettet mot den rollen de juridiske tekstene får i studentenes utforskende arbeid med case-oppgaver. Selv om case-oppgaver er utbredt i jusstudiet, vet vi lite om hvordan studenter jobber med slike oppgaver. Det er relevant å undersøke studenters samarbeid om case-oppgaver for å få innsikt i kunnskapspraksiser og læringsutfordringer da det krever at studenter må etablere felles grunnlag for sin aktivitet, identifisere og trekke på ressurser fra profesjonen i arbeidet og finne ut av hvordan de skal "bevege seg" i et kunnskapsfelt.

Avhandlingen består av tre artikler og en kappetekst som oppsummerer og drøfter funnene fra artiklene. Artikkelen 1 fokuserer på studenters arbeid med juridiske begreper. Analysen undersøker hvordan første års jusstudenter går fram for å tilegne seg begrepsforståelse gjennom samarbeid om en case-oppgave, og hvordan denne tilegnelsen virker læringsdrivende. I artikkelen 2 undersøker vi hvordan andre års jusstudenter går fram for å løse fagspesifikke problemstillinger i samsvar med en norm for juridisk praksis som innebærer å holde problemene åpne for utforskning. Artikkelen 3 adresserer de læringsutfordringer som oppstår når studenter skal finne fram til måter å utforske faglige problemstillinger på i møte med deler av fagfeltet som er i rask utvikling. Artikkelen undersøker studenters arbeid med fire case-oppgaver i folkerett.

På tvers av artiklene har avhandlingen synliggjort et sett av kunnskapspraksiser som er sentrale i gruppens arbeid med oppgavene, og som er viktige for å oppfylle normer og standarder for utforskende arbeid i profesjonen. Disse praksisene handler om måter å ramme inn juridiske problemer på i møte med et narrativ, dekomponere og undersøke rettslige konflikter på en systematisk måte samt legitimere krav og rettferdiggjøre argumenter. Analysene fremhever hvordan begreper, tekster og metoderegler både strukturerer og holder kunnskapspraksisene i gang i studentenes arbeid. Disse funnene er i tråd med tidligere forskning som viser at jusstudenter, gjennom å ta del i praksiser, får tilgang til den juridiske diskursen, fagspråket og ressursene i profesjonen. I tillegg bidrar artiklene med ny innsikt gjennom å vise betydningen av det prosedurale ved å ta del i et kunnskapsfelt som jus. Avhandlingen har også gitt ny innsikt i læringsutfordringer studentene står overfor når de deltar i disse kunnskapspraksisene. Artiklene viste hvordan studentene ble utfordret på å bevege seg mellom ulike kontekster for å forstå og anvende begreper som fagressurser, finne måter å nærme seg problemløsning på ansvarlig vis, og identifisere relevante kunnskapsressurser når etablerte normer og konvensjoner ikke er tilstrekkelige. Analysene viste at det å velge ut og kombinere ulike tekster som kan fungere strukturerende for arbeidet, samt å ta del i en utforskende dialog, var sentralt for at de kunne håndtere læringsutfordringene og komme videre i utforskningen.

Gjennom de valgte analysebegrepene har analysene av de to kurskontekstene gitt grunnlag for å beskrive noen viktige vilkår for at studentene kan ta del i kunnskapspraksiser i jus i utforskende aktiviteter. Gjennom begrepet 'epistemic space' har avhandlingen vist at slik begynnende deltakelse innebærer å konstruere handlingsrom for utforskning av problemstillinger *med* fagressurser. Gjennom begrepet 'appropriation' understrekes læringspotensialet i å gi studenter mulighet til å teste forståelse av fagbegreper og normer, slik at disse ressursene kan ta forskjellige funksjoner i læringsaktiviteten. Videre, gjennom 'assembling' og 'navigation', viser avhandlingen at det som blir satt sammen av ressurser, men også hva slags ressurser som gjøres tilgjengelig, og hvilken rolle ulike kunnskapsproduserende og fortolkende aktører tilskrives i læringskontekster, er viktig for hva som defineres «innenfor» og «utenfor» studenters handlingsrom i utforskende aktiviteter. Gjennom disse begrepene viser avhandlingen hvordan studentene stilles overfor økte og til dels motstridende forventninger til hva det betyr å ta del i fagets kunnskapspraksiser.

I sluttdiskusjonen understrekes betydningen av gjennomtenkte pedagogiske design for å legge til rette for, og støtte opp under, studenters læring når de står overfor ulike praksiser i et kunnskapsfelt.

Summary

Title: Knowledge Practices and Learning Challenges in Legal Education –Examining students’ collaborative work in two undergraduate courses

Higher education has its core function of introducing students to—for them—a new professional knowledge field. However, how such introduction can be facilitated and what it entails, has changed over time. Today, we witness a growing interest in student-centered approaches to learning in higher education, where exploration, problem solving, and collaboration between students are included in the designs of courses and educational programmes. It is thought that by catering for exploratory contexts and activities, students can be provided with opportunities to understand content and practice ways of working in their field which is imperative for learning. We are currently also witnessing changes in the professions, as processes such as internationalisation and digitisation contribute to generating new problem complex and challenging existing practices. When expectations for participation change, there is a need to study students’ participation in knowledge practices. This thesis primarily aims to contribute to a better understanding of what it means for students to take part in a knowledge community and to develop in-depth insights into the challenges undergraduate students face in that respect. I approach this overall aim by examining *knowledge practices* and *learning challenges* as they play out in groups of *law students* who relate to and apply resources as they work on profession-specific issues. To investigate this, I have moved into two course contexts from the first and second year of study.

Written sources constitute important resources for jurists in their daily work; hence, they are central to both maintaining and developing knowledge in the profession. Even though these sources play a key role in both students learning and in the profession, few studies have investigated in depth what knowledge practices are at play when students use legal texts to explore issues and what challenges students encounter and must handle when taking part in such practices. In this thesis, I build on core assumptions and concepts from sociocultural and social practice theory and highlight learning as increased participation in historically developed and textually mediated knowledge practices. Knowledge practices are understood here as recognised ways of ‘doing’ knowledge, such as framing questions in relevant ways and exploring problems following norms and conventions. My first two research questions are as follows:

1) What characterises knowledge practices students are introduced to in undergraduate legal education?

2) What learning challenges do the students face when participating in these practices?

To develop more in-depth insights into what it means to participate in knowledge practices in the field of law, we need analytical concepts that allow for investigations into how students proceed when delineating issues and applying knowledge resources in new contexts. To synthesise the sub-studies included in the thesis, I used the following analytical concepts: *epistemic space*, *appropriation*, *assembling*, and *navigation*. The third research question of the thesis is: 3) How can the thesis' choice of analytical concepts contribute to generating a better understanding of students' initial participation in knowledge practices in law?

The thesis is based on analyses of qualitative data from two course contexts—an introductory course and a second-year course in international law. To investigate the research questions, I follow the students' interactions in group-work and pay particular attention to the role that the legal texts play in the students' exploratory work with case assignments. Although cases are prevalent in legal education, insights into how students approach these assignments are less well known. Examining students' collaborative work on these assignments is relevant for gaining insight into knowledge practices and learning challenges, as the nature of this work requires students to establish a common basis for their activity, identify and draw on various resources from the profession, and find ways to 'move' in the knowledge domain.

The thesis is comprised of three articles and an extended summary in which I summarise and discuss the findings of the articles. Article 1 focuses on students' work with legal concepts. The analysis examines how first-year law students proceed to acquire a conceptual understanding through collaborating on one case assignment and how this acquisition stimulates further learning. In Article 2, we examine how second-year law students progress to solve profession-specific issues following a standard of legal practice that involves keeping problems open for exploration and the role the legal texts play in their learning. Article 3 addresses the learning challenges that arise when students are to find ways to explore profession-specific problems when facing rapidly evolving parts of the field. The article examines students' work on four case assignments in public international law.

Across the articles, the thesis highlights a set of knowledge practices that were central to the groups' work and that are important in meeting standards for exploratory work in the legal profession. These practices concern ways of framing judicial problems from a narrative,

decomposing and investigating legal conflicts systematically, legitimising claims and justifying arguments. The analyses specify how concepts, texts, and methodological rules both structure and keep knowledge practices in motion in students' work. These findings support previous research showing that law students, by engaging in practices, access legal discourse, professional language, and resources in the profession. Furthermore, the articles provide new insights by showing the importance of the procedural aspects of participating in the knowledge practices of law. The thesis also reveals new insights into *learning challenges* students encounter as they participate in these practices. The articles show how the students are challenged in moving between different contexts to understand and use concepts as resources in their work, to find ways to approach problem solving, and to identify relevant knowledge resources when established norms and conventions are insufficient. The thesis shows that establishing structures of texts and engaging in exploratory dialogue are imperative to handling these learning challenges and move on in their exploration.

Through the chosen analytical concepts, the analyses of the two courses have provided a basis for describing some important conditions for students to participate in knowledge practices in law in exploratory activities. By employing 'epistemic space', the thesis reveals that initial participation involves constructing spaces for action as part of exploring issues *with* professional resources. Through the concept of 'appropriation', the thesis emphasises the learning potential in providing students with opportunities to test their understanding of concepts and norms so that these resources can take different functions in learning activities. Furthermore, through 'assembling' and 'navigation', the thesis shows that what is being put together regarding resources, what kind of resources are available, and the role various knowledge-producing and interpretive actors are prescribed in educational contexts are important for what is defined 'within' and 'outside' students' spaces for action. Through these concepts, the thesis shows how the students encounter increased and sometimes conflicting expectations of what it means to participate in the knowledge practices of law.

The final discussion emphasises the importance of thoughtful pedagogical designs to facilitate and support students' learning when faced with different practices in a knowledge field.

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Article 2: Maintaining doubt to keep problems open for exploration: An analysis of law students' collaborative work with case-assignments.

Article 3: Navigating fluid epistemic spaces: Emerging challenges for knowing and learning in public international law.

Appendices (In English and Norwegian)

Appendix 1: NSD confirmation letter

Appendix 2: Author declaration for co-authorship for article 2

Appendix 3: Information letter and informed consent students

Appendix 4: Information letter and informed consent teachers

Appendix 5: Student group interview guide

Appendix 6: Interview guide for teacher interviews

1 Introduction

This thesis primarily aims to contribute to a better understanding of what it means for students to take part in a knowledge community and to develop in-depth insights into the challenges undergraduate students face in that respect. The thesis examines law students who, in their first and second years, go about relating to and applying profession-specific resources as they collaborate on case assignments in two course contexts.

1.1 Background

Higher education has its core function of introducing students to a professional knowledge field. Today we are witnessing changes in the professions as processes such as internationalisation and digitalisation that contribute to generating new problem complexes and challenging existing practices. To facilitate student learning in increasingly complex fields where professionals need to handle rapid changes in their daily work (Boud, Ajjawi, Dawson, & Tai, 2018; Lehtinen, Hakkarainen, & Palonen, 2014; Markauskaite & Goodyear, 2017), we witness a stronger emphasis on the need for students to be active in their learning, both in making sense of knowledge content and finding solutions to problems (Barkley, 2010, 2014; McCormick et al., 2013). The focus on student-active and student-centered learning and inquiry-oriented approaches has entered centre stage in the European and national education policy agenda (European Commission, 2014; St. Meld. 16, 2016–2017). In the field of learning research, it has been documented that engaging in explorative and inquiry-oriented activities is productive for learning (Bransford, Brown & Cooking, 2000; Littleton & Mercer, 2013). Literature focusing on student-centered learning environments highlight the need for providing students with opportunities to gain experiences from practices that are characteristic for the domain they are to take part in (Land, Hannafin, & Oliver, 2012). Moreover, it emphasises that students should have the opportunity to activate previous experiences as well as to take ownership of their inquiry processes. Such activities need guidance and “scaffolding”.

In designing educational programmes and courses the above-mentioned trends have induced an orientation and commitment to facilitating student-active and exploratory activities and approaches. Still insights into what students actually do when participating in these activities are limited, especially in higher education contexts. Working exploratorily and ‘actively’ can

take different forms. Also, in the Norwegian higher education context, we have witnessed a focus on pedagogical designs and how to facilitate students' active participation (Nerland & Prøitz, 2018; Veine et al., 2019,). In some educational programmes, student participation takes place by involving students in research activities. In *legal education*, as in other educational programmes, it is common to design learning activities that include problem solving, case assignments, and student collaboration. In legal education, student-active approaches are more often expressed through engaging students in the exploration of legal problems through working on case assignments. Due to the exploratory nature of case assignments, in the following, I will refer to these activities as exploratory- or inquiry-oriented activities, which are understood as activities in which students make sense of and explore problems and knowledge in their course.

In line with the increased emphasis on what students *do*, we have witnessed an emerging interest in describing and discussing how students learn to take part in knowledge communities emphasising *practices*, and what it entails for students to participate in the core practices of a profession (Anderson & Hounsell, 2007; Hakkarainen, 2009). We have also seen more research focusing on the practices students participate in as they explore subject matter and problems in educational contexts (For example Damşa & Nerland, 2016; Mäkitalo & Säljö, 2017). Participating in practices is considered a core mechanism for the initiation of newcomers in communities (Lave & Wenger, 1991), and recent research has attended to how these practices and 'enrolment mechanisms' are distinct in different professional fields (Damşa, Nerland & Jensen, 2017). Overall, investigating practices as they unfold in exploratory activities allows us to envisage the epistemological dimension of students' learning (Anderson & Hounsell 2007; Boud et al., 2018). While both talking about knowing or 'doing' knowledge is common in research literature, I use the concept of *knowledge practices*¹ in this thesis (Cunningham & Kelly, 2017; Jensen et al., 2015; Kelly, 2008). This concept emphasises how a knowledge community is characterised by specific ways of

¹ The concepts 'knowledge practices' and 'epistemic practices' have gained entry into studies of higher education (Nerland, 2018) and are often used interchangeably. 'Epistemic practices' as a concept originates from studies of the sciences (Knorr Cetina, 1999), and Cunningham and Kelly (2017) refer to epistemic practices in their research and writings on teaching scientific inquiry. Although I refer to Kelly's definition in this thesis (see 2.1.2), I systemically use knowledge practices as the concept in this thesis from legal education. I do so because in legal education there is an established division between legal work and research. Hence, I view knowledge practices to be a more relevant concept for this thesis.

securing and developing knowledge and involves ways of framing questions in acknowledged ways, validating conclusions, and applying techniques and norms for making use of profession-specific resources (Kelly, 2008; Jensen et al., 2015). Although it is recognised that participating in these practices is vital for students' ways into a field, only a few studies follow what happens during education when students begin partaking in such practices (Haggis, 2009; Nerland, 2018). Particularly, what happens after the very first introduction to a field tends to be overlooked (Milsom, Stewart, Yorke & Zaitseva, 2015).

In this thesis, I focus on how undergraduate law students participate in knowledge practices in exploratory course activities. I will highlight two reasons for why legal education is considered particularly relevant in that respect. First, large student cohorts characterise legal education, and teaching has been highly dominated by lectures (Fossland & De Lange, 2018). Law students traditionally spent lot of time on individual work such as reading in textbooks (Strømsø, 2003), and the extent to which students take part in collegium group work, for instance working on case assignments, typically happens on the students' own initiative and are thus unavailable to staff to access. Due to limited practical training and feedback to students legal education has been largely criticised for being disconnected from the professional duties that lie ahead (Sullivan et al., 2007). Recently, legal education has changed from primarily text-based teaching and individually oriented study to include more collective exploratory processes such as, for instance moot court exercises or discussion of case assignments (Dysthe, Lillejord, Wasson & Vines, 2011; Fossland & DeLange, 2018; Jensen et al., 2015). Nevertheless, few studies from legal education have followed the processes and practices involved as students work together to explore legal issues with textual resources. Especially the parts of the students' exploratory activities that are not teacher-led, have been scarcely studied. With the increasing interest in the systematic use of collaboration for designing courses, this thesis thus provides unique insights into learning challenges and participation processes that are foundational to follow-up and facilitation of student learning. Furthermore, legal education is interesting due to developments in the law profession itself. On the one hand, legal education aims to educate candidates who are to take part in a field that has an important stabilising function in establishing what can be recognised as a valid understanding of rules of law. Hence, a key purpose for legal education is to ensure that students learn to draw on authoritative texts to justify and establish the application of law (Dysthe et al., 2011). At the same time, the legal profession is also evolving, partly due to a more internationally oriented labour market and increased interaction across nations, that

challenge existing legal practices (Faoulconbridge & Mucio, 2009; Lang, 2012; Waibel, 2015). Because of this development and tensions that emerge between efforts to foster stability and change in the field, we need more insight into what specific challenges students face in that regard, and how such challenges are dealt with in educational contexts.

1.2 Students' ways into knowledge communities – A social practice view

As a theoretical basis for examining students' initial participation in knowledge practices in law, the thesis builds on assumptions and analytical concepts from social practice theory and sociocultural theory on learning. From social practice theory, a key assumption in the thesis is that moving into a new profession involves taking part in knowledge practices that are informed by discipline-specific tools and procedures that form problem-solving processes. Here this theoretical starting point is used to highlight the importance of gaining insights into knowledge practices as they play out both at a level of structure and action (Kelly 2008; Säljö 2010). Although social practices in educational contexts are not identical to practices in knowledge fields, they are still related (Nerland 2018). It is precisely because social practices are located *both* in the profession and in education that we need new insights into how students participate in these practices and the challenges they face in that regard (Anderson & Hounsell, 2007; Cunningham & Kelly 2017).

Moreover, sociocultural theory assumes that learning is mediated by cultural tools that enhance and over time change participants' actions (Wertsch, 1998). From a view of learning as increased participation in knowledge practices, *learning challenges* are understood as the challenges students face as they start to participate in materialised knowledge practices. More specifically, learning challenges refer to the challenges students face in their process of coming to know in appropriate ways, which includes ways of approaching problems, ways of identifying relevant textual sources and tools to work on these problems, and ways of constructing spaces for action in new contexts.

From this theoretical stance, I employ analytical concepts that allow for exploring investigative processes and practices enacted as students generate interpretations and use knowledge resources in collaborative work with profession-specific problems. From such a view on learning and learning challenges, in this thesis, I highlight the need to account for how students establish a common ground for their activity, and how they identify and draw on

cultural resources from the field of law in their work. To allow for exploring what students *do* as they frame and solve problems following standards and conventions in law within inquiry-oriented activities as well as to consider the complexity of partaking in these practices in such contexts, this thesis employs different analytical concepts—*epistemic space*, *assembling*, *appropriation*, and *navigation*. These concepts are further described in chapter 2.2.

1.3 Aims and research questions

Based on the assumption that conventions for acknowledged forms of “knowing” are manifested in material resources and become enacted when different tools are activated in inquiry- and problem-solving activities, this thesis aims to generate insights into law students’ initial way into the field of law, and the challenges they encounter in that respect. The empirical work is conducted in two course contexts where students work with resources in the legal profession to frame and solve case assignments. I ask RQ1: *What characterises knowledge practices students are introduced to in undergraduate legal education?* and RQ2: *What learning challenges do the students face as they start taking part in these practices?*

Another aim is to conceptualise law students’ participation in knowledge practices in law in exploratory activities. As mentioned, I employ various concepts to capture the complexity of students’ participation in practices in law as an established yet evolving field. From this aim, I ask RQ3: *How can the thesis’ choice of analytical concepts contribute to generating a better understanding of students’ initial participation in knowledge practices in law?*

1.4 Research design and empirical work

Previous qualitative studies from different study programs have demonstrated how inquiry-oriented activities are productive sites for examining how students participate in knowledge practices and learn to approach knowledge resources appropriately (Jensen et al; 2015; Mäkitalo, 2013; Mäkitalo & Säljö, 2017). To explore the overall questions framing this thesis, I am inspired by ethnographic traditions in educational research (Green and Bridges, 2018) and designs for the study of knowledge in use through analysis of interaction (Hall & Stevens, 2015). Informed by these traditions, I selected and analysed data from two course contexts: One introductory course and one second-year course in public international law.

To understand how students develop a common understanding of legal issues and the challenges they face in the process, I observed students' who collaborated on exploring and solving case assignments with the knowledge resources available in these educational contexts. By focusing on both actions and interactions in students' colloquium work, I explore knowledge practices and challenges in the students' work, as this allows me to get in-depth insights into the challenges they face as they coordinate their actions and perspectives to 'go on' and pursue their tasks (Mäkitalo, 2102, p. 65). From the two courses, I collected various qualitative data: video observations of group work from five student groups, interviews with students and teachers, textual sources, and course material. To obtain both the structural and action layers of knowledge practices in the courses, I combined thematic analyses, which emphasised mapping practices and resources taken into the activities, with analyses of the micro-processes in the students' work. The process analysis focused on the students' use of knowledge resources in a more detailed way.

1.5 The articles in the thesis

The empirical work is conducted as three analyses published or submitted as journal articles. The articles are both independent contributions, meaning that they relate to different sets of research questions (cf Table 1 below). They are also interrelated, as they explore knowledge practices in the students' work across assignments and groups. The analyses complement each other by highlighting knowledge practices and learning challenges at two points in time in the study programme. While Article 1 builds on the dataset from the introductory course ('A walk through of legal sources'²), the analyses conducted for Articles 2 and 3 are derived from the second dataset from a third semester course in public international law. The two courses differ in that the second-year course carries with it a greater complexity regarding which legal sources, actors, and verifying instances which students can explore as part of their work. They are also similar in that they include case assignments with which students work in groups, supported by teacher-led seminars.

The articles also supplement and complement each other as they focus on how different knowledge sources become tools for participation in practices. The sub-study in *Article 1* emphasises legal concepts and explores processes and practices involved as students become familiar with and learn how to use concepts appropriately in problem-solving activities so that

² Translated from the Norwegian name of the course: Rettskilder til fots.

these concepts can develop into tools for learning. This article sets out to contribute to existing research from undergraduate legal education by analysing in detail how student groups explore and use concepts in their work with a case assignment. Moreover, the aim of the analysis presented in *Article 2* is to unpack how students learn to participate in knowledge practices as they solve problems following norms for investigating profession-specific problems. In this article, we took an analytical interest in the role that legal sources play in producing and maintaining doubt in the students' collaborative work. Finally, the sub-study presented in *Article 3* focuses on the challenges that law students face as they partake in law as an evolving knowledge fields. The sub-study explores challenges in creating spaces for exploration in international law. Table 1 below overviews the specific questions investigated in the articles³. These questions provide insight into the thesis's overarching questions (1.3).

Table 1. The articles included in the thesis and their respective research questions

Articles included in the thesis		
<p>Article 1 Enqvist-Jensen, C. “Hva er en mangel?”—Begreper mange funksjoner i jusstudenters læringsarbeid” (“What is a defect?”— Concepts and their different functions in student learning) <i>Submitted to a Journal</i></p>	<p>Article 2 Enqvist-Jensen, C., Nerland, M. and Rasmussen, I. (2107). «Maintaining doubt to keep problems open for exploration: an analysis of law students' collaborative work with case-assignments.” Learning Culture and Social Interaction, 13, 38-49. https://doi.org/10.1016/j.lcsi.2017.02.001</p>	<p>Article 3 Enqvist-Jensen, C. (2018). “Navigating fluid epistemic spaces—Emerging challenges for knowing and learning in public international law.” Studies in Continuing Education. 40 (3). 257-272. https://doi.org/10.1080/0158037X.2018.1445984</p>
Research questions addressed in the articles		
<p>1. How do the students go about developing an understanding of concepts while working with the case assignment? 2. What functions do the concepts take in the students' learning activities?</p>	<p>1.How is legal doubt produced and maintained in the students' interactions? 2.What role do the legal sources play in this process?</p>	<p>What learning challenges do the students face when solving cases in international law?</p>

³ Notice, I have written Article 1 in Norwegian in order to communicate with scholars in the field of legal education within a Nordic context.

1.6 The outline of the thesis

This article-based thesis is comprised of two parts: the extended abstract (Part I) and the three articles written as part of the PhD-project (Part II). Part 1 comprises the research contribution. After introducing briefly the background, research focus, and overall research questions, the extended abstract expands the theoretical premises and core analytical concepts in the thesis. Chapter 2 provides the theoretical and conceptual basis used to explore students' learning challenges and knowledge practices in legal education. This chapter also describes the analytical concepts I have used in synthesising the three sub-studies included in the thesis.

Chapter 3 positions the analytical and empirical focus of the three analyses conducted as part of the thesis. The chapter highlights selected studies from various professional and higher education programmes that provide insights into core relations and interconnections between the structural and action levels of social practices in student learning, which this thesis builds upon and complements. The chapter also presents research from undergraduate legal education underpinning the need for more in-depth insights into the learning challenges that undergraduate law students face as they start to make sense of and transform concepts, norms and textual sources into tools for learning. Chapter 4 comprises the methodological approach used in this thesis to explore learning challenges and knowledge practices in the context of legal education and considers the credibility of the research project, including questions concerning reliability, validity, generalisation, and ethical considerations.

The extended abstract also merges the main findings and discusses the contribution and impact of these findings for future research and practice. Chapter 5 presents summaries of the three articles and their findings related to their respective research questions. Chapter 6 brings together insights *across* the articles and discusses their overall contributions to previous research on learning challenges and students' initial participation in knowledge practices in undergraduate legal education. The chapter also discusses the thesis's main contribution to existing knowledge on processes involved in students' initial participation in knowledge communities in the context of higher education more broadly.

Part II of the thesis comprises the three articles presented in Table 1 above.

2 Theoretical perspectives and analytical concepts

This thesis set out to examine the challenges law students face as they start to take part in core practices of law. The current chapter explains how a *social practice lens* combined with analytical resources from *sociocultural theory of learning* forms the theoretical and conceptual basis to pursue the overall objective of this thesis. The chapter outlines the key theoretical assumptions underpinning my way of conceptualising knowledge practices and learning challenges in the context of legal education. The chapter also presents the analytical concepts I employed to examine the different dimensions of students' participation in knowledge practices in legal education.

2.1 A social practice perspective

The current thesis is founded on some basic theoretical assumptions from social practice theory and sociocultural theory of learning. The concept of *social practice* offers a specific analytical starting point for understanding how law students, as future practising jurists, go about as they start to participate in acknowledged forms of knowing that characterise the legal profession. In the following sections, I will explore the theoretical assumptions forming the basis for how I approach knowledge practices and learning challenges in legal education.

2.1.1 Theoretical assumptions

The first theoretical assumption forming the basis for my understanding of learning as participating in social practices is that social practices involve both *structure and action* (Gherardi, 2000; Hopwood, 2016; Knorr Cetina, Schatzki & Von Savigny, 2001).

First, practices operate at a structural level, meaning that professional fields comprise specific practices and ways of knowing. Practices also embody norms for what is considered recognised ways of framing problems using resources to explore or validate statements.

Profession-specific resources and tools play important roles in maintaining and changing social practices on a collective level. Various knowledge resources and profession-specific tools are shared in a culture that exists across the boundaries of local sites. Hence, such collectively agreed-upon ways of knowing have a life independent of the individual as artefacts and resources in the form of texts, concepts, and tools (Mäkitalo, 2012). Social practices are simultaneously enacted, as they also refer to what becomes enacted as

representations of collectively recognised ways of practicing. Since social practices require enactment in new contexts, involvement in practices always encompasses some form of *agency*.

The second assumption underpinning my perspective on knowledge practices and learning challenges concerns the performative nature of social practices. The *performativity* of social practices is a foundational principle in social practice theory, which is essential for my understanding of learning in higher education as participation in social practices (Markauskaite & Goodyear 2017; Säljö, 2010). Focusing on this aspect of social practice becomes important for understanding student learning, as social practices are not readymade but comprise various resources and norms for actions that need to be activated in problem-solving activities. Furthermore, the performativity of social practice denotes that practices have *effects* on the work done in contexts with resources available. This implies that when a resource, such as a chart, a model, or a core concept, is put into use in discussing or framing an overall problem, new angles, perspectives, or new questions can emerge and form how a discussion evolves or a problem is explored.

Finally, the third assumption underpinning my perspective on students' participation in social practices is the assumption that human action is mediated by cultural tools (Säljö, 2002; Wertsch, 1998; Wertsch, 2007). *Mediation* is related to how practices are interlinked with *cultural tools*—that is, to the conceptual and material artefacts that we use to interact with our surroundings. This theoretical premise implies that the ways humans act and make sense of the world are shaped and maintained by what we do through the cultural tools available to us, and that using different artefacts is crucial to changing humans' capacity for action in social practices (Wertsch, 1998).

The significance of cultural tools in mediating students' participation in professional practices has induced increased interest in the materiality of social practices. This aspect of practice comes into view in sociocultural perspectives on learning, which highlight how texts, technologies, and other cultural tools both shape and are shaped by human practices (Säljö, 2009; Säljö, 2010; Makitalo, 2012). Knowledge is made accessible through a multitude of socio-material representations. This implies that the ways that professional knowledge is inscribed in for instance texts, charts or models, plays an important role in the enactment of professional practices. Thus, it is precisely by using cultural tools that students access the field's established knowledge and conventions. Therefore, we need better insights into how

students' engagement with texts and other resources provide access to the wider knowledge field, and its collective way of knowing.

The structural dimension of social practice also refers to how social practices represent collective ways of 'doing', which are historically constituted and evolve over time. To understand what it means for students to take part in a knowledge community in education, I have chosen *knowledge practices* as a more specific term for the type of social practices investigated in this thesis.

2.1.2 Knowledge practices

Knowledge practices – as a specific form of social practices – denotes the ways in which knowledge is approached, developed and shared in a given knowledge community. This concept emphasises how knowledge is constructed and justified within a particular community and how students relate to acknowledged ways of 'doing knowledge', or in Kelly's (2008) words, (...) '*the specific ways members of a community propose, justify, evaluate, and legitimise knowledge claims within a disciplinary framework*' (p. 99). More specifically, knowledge practices involve ways of framing questions in acknowledged ways, validating conclusions, and applying techniques and norms for working with profession-specific resources (Jensen et al., 2015; Kelly, 2008; Kelly, 2011; Knorr Cetina, 1999). These practices exist in the professional field but also become something that students are exposed to and involved in during their education (Nerland, 2018). Through its analytical sensitivity towards ways of 'doing' knowledge, this concept allows us to see students' participation as performative, in which their enactment of knowledge practices becomes consequential for their work and learning when they make use of these sources in exploratory and problem-solving activities.

Through approaching knowledge practices in this way, I can pay attention to both the structure and action layers of the practices in which students participate. This is achieved by highlighting the need to consider the collectively established conventions for ways of working with knowledge, and the significant roles profession-specific resources play as mediating tools. I also underscore the importance of focusing on the specific knowledge practices that play out in problem-solving activities in educational contexts.

2.1.3 Learning challenges

In this thesis, I focus on participation in practices and students' use of profession-specific resources in problem solving activities. From such a view on learning, *learning challenges* are understood as challenges students' encounter when participating in these practices. By highlighting the performativity and materiality of knowledge practices, learning challenges are viewed as challenges of identifying acknowledged ways of knowing materialised in texts, concepts, and tools, and identifying spaces for actions in new contexts. Hence, learning challenges also concern the difficulties of finding ways to address a problem, which can induce further exploration (Mäkitalo, 2012).

In the legal domain, textual sources of law (such as statutes or court decisions) are core knowledge resources, which serve an important stabilising role in the knowledge domain (i.e. in establishing a rule of law) (Dyste et al., 2013; Latour, 2010). Concurrently, these texts must be opened and used following procedural standards but in non-identical contexts (Mäkitalo, 2013). Based on my interest in the materiality of the students' knowledge practices, I especially consider how the students use textual sources in their work. To do so, my primary unit of analysis is mediated action in situated practices. By entering into learning activities in which students are set to use profession-specific tools, the intersections between action and structure can come into view. The next section presents the analytical concepts I employ in the thesis to explore what students *do* as they engage with tools for learning and how they find ways to identify and utilise different knowledge resources to resolve problems following the norms of legal practice.

2.2 Analytical concepts

Taking such a practice perspective on professional learning as a theoretical lens provides analytical concepts that allow for exploring investigative processes and practices involved as students employ knowledge resources in collaborative work with profession-specific problems. From such a perspective, I specify the need to consider both spatial and temporal dimensions of their activity, how the students establish a common ground for their activity, how they identify and draw on cultural resources from the field of law in their work, and how they 'move' in a knowledge field over time. I have used different analytical concepts that highlight different aspects of students' participation in knowledge practices. To do so, the thesis highlights *epistemic space*, *assembling*, *appropriation*, and *navigation* as analytical

concepts and uses them to open up mediated action in students' problem-solving activities as the core unit of analysis. These analytical concepts allow the exploration of students' participation in problem-solving activities with profession-specific concerns (Mäkitalo, 2012).

2.2.1 Constructing an epistemic space

To allow for describing and exploring what it entails to engage in acknowledged forms of 'doing knowledge' in the context of exploratory contexts in higher education, I use the concept of *epistemic space* (Markauskaite & Goodyear, 2017). A key to Markauskaite and Goodyear's thinking about student learning in higher and professional education is that learning implies developing a capacity to make knowledge actionable in new contexts. This is not a straightforward task, and to capture the complexity of professional learning, they use an epistemic space metaphor for professional learning. In this thesis, I draw on this metaphor as a way to approach how students create a common ground for working with issues in exploratory contexts in legal education. Epistemic spaces are seen as '*spaces within professionals' need to learn to work and within which they co-configure their epistemic environments*' (Markauskaite and Goodyear, 2017 p. 121). These spaces comprise common problems, representational systems and other semiotic resources, and inquiry tools that form the ground for joint meaning making. As such, they form the local arrangements for learning in which the general knowledge and standards in the profession become part of situated problem solving. These spaces may be more or less stable and more or less open. However, in the contexts of inquiry tasks, such as case assignments, it is typically not given what resources the students can activate in their problem solving. One aspect of their task thus becomes constructing a local epistemic space for the work at hand.

My use of 'epistemic space' as an analytical concept in this thesis is in line with Markauskaite and Goodyear who argue that developing capacities to operate with ideas as part of professional learning can be understood as '*building and inhabiting a blended space*' (2017, 334). What makes epistemic spaces 'blended' is that such spaces are composed of different actors and their knowledge contributions, or products, such as texts, instruments, models, or other types of materials. An epistemic space is also understood as an *in-situ space*, which is constructed through the ways actors frame problems and draw on authoritative actors and their products, concepts and rules to create and explore problem statements. Hence, engaging in problem-solving activities in educational contexts necessitates the construction of such

spaces. To open up and explore what it means to construct and find a way in epistemic spaces while solving problems in educational settings, I use *assembling*, *appropriation* and *navigation* as analytical concepts.

2.2.2 Assembling knowledge resources

As discussed earlier, social practices are composed of people but also of various resources. These practices are not ready-made, and consequently, to participate in the knowledge practices of law, students are also challenged to identify and organise resources for the problem at hand during problem-solving activities. *Assembling* refers here to how students identify, gather, and use resources to address problems, as well as integrating various resources to make knowledge ‘actionable’ as part of engaging in problem solving (Markauskaite and Goodyear, 2017). Hence, assembling concerns processes of bringing in knowledge resources, to put such resources together and integrate them as part of constructing an epistemic space for practical use in problem-solving activities

In the legal profession, various legal texts are especially important as resources for practicing jurists. These texts must be integrated into jurists work. However, integrating these texts and relating them to each other is not straightforward. ‘Assembling’ is considered particularly relevant as an analytical concept in exploring what students do within educational contexts when they explore complex problems, and in these situations, it is not necessarily evident what kind of resources are relevant to use and how they relate to others.

2.2.3 Appropriation of cultural tools

To construct an epistemic space, students also need to *identify* with the resources they make use of as cultural tools. I employ *appropriation* as an analytical concept in exploring how students begin to make sense of and understand core knowledge resources so they can function as tools for learning. This concept is closely related to how learning entails becoming familiar with and learning how to use specific tools in appropriate ways in different contexts. I use appropriation following Wertsch (1998), who characterises appropriation as a process of identifying with cultural tools. Appropriation is conceptualised as a process of making a cultural tool ‘one’s own’ or, more specifically of (...) “*taking something that belongs to others and making it one’s own*” (p.53). Hence, appropriation is, following Wertsch’s understanding, not a passive process but demands action, which in turn becomes

consequential for further tool use. Furthermore, it implies that the students not only master the use of the cultural tools, but also find them relevant as useful for one's own purposes. This requires deep understanding of the knowledge resources, as well as reflexive processes where these become personal (Levrini et al., 2015). Such processes may unfold over a longer period. At the same time, it is brought up as an educational ambition to enhance connections between educational experiences and the students' aspirations and sense of meaning.

Using this concept following this line of thinking includes and accounts for students' agency in the learning process and emphasises the importance of the mediating tool itself. Here, the relationship between tools and learners is important for understanding appropriation as a dynamic process, which always involves some friction between agent and mediational means. Wertsch (1998, p. 54) describes how '(...) *cultural tools are often not easily and smoothly appropriated by agents. Instead, there is often resistance, and there is at least something that might be called "friction" between mediational means and unique use in mediated action*'. This implies that the appropriation of tools always involves some form of meaning making and transformation. Thus, appropriation can be understood as an interrelated process that involves putting a knowledge resource in 'motion' and internalising a way of understanding the source itself. It can be applied analytically to examine how students begin to understand the core aspects of key knowledge resources in ways that are important for using resources in new contexts. In other words, appropriation is not regarded as a final or a closed process but involves developing an understanding of a specific knowledge resource itself and how it can be used in way that are considered relevant. In Article 1, *appropriation* of concepts is used analytically to examine how students identify with concepts.

2.2.4 Navigating epistemic spaces

To reveal how students find their ways in an epistemic space, I use the concept of navigation. Navigation is understood—following Stevens et al. (2008) and Markauskaite and Goodyear (2017) and their thinking—as a metaphor for how students go about or move in educational settings to develop an understanding of what becomes their interpretational possibilities or spaces for action while they engage with profession-specific problems. Hence, employing navigation as an analytical concept involves questioning how students go about distinguishing between what is relevant or not as well as determining what are acknowledged ways of using knowledge sources in the field.

Students' navigation is regulated by material resources *and* an institutional discourse, which requires that the students justify what is used, selected, or drawn upon to identify a problem or provide a solution (Mäkitalo, 2012; Mäkitalo, 2013; Stevens et al., 2008). Based on this perspective, one could expect that student navigation becomes smoother when rules for validation are clear and available in educational contexts and when textual sources are linked in ways that guide students in finding their way in framing and solving problems.

Correspondingly, navigation is likely to become more demanding when students encounter unclear boundaries of what constitutes a valid knowledge statement.

Knowledge practices in law are historically developed and materialised in a manifold of texts and other resources. These resources come together in problem solving through the rules and norms. Simultaneously, the knowledge domain is constantly evolving, and what is seen as agreed-upon rules of practice may change over time. It is, therefore, important to understand simultaneously how students identify with tools they can use them in a new context and how they draw on established practices and relate to and handle situations where existing practices become challenged (Ruud & Ulfstein, 2011; Waibel, 2015). In these situations, students need to relate to a broader set of socio-material and organisational practices in constructing their interpretational possibilities and spaces for action—their epistemic space—as they draw upon different knowledge resources available for them in educational contexts.

2.3 Summing up

Aiming to develop insights into learning challenges and knowledge practices in legal education, the current thesis includes three articles that account for the action and structure dimensions of knowledge practices. The articles focus on profession-specific knowledge resources and how they develop into resources for students' participation in knowledge practices in educational settings. In Article 1, I emphasise legal concepts as knowledge resources and tools for practicing law. Moreover, in Article 2, I focus on the processes and practices involved as students work on cases by following a norm for problem solving. Finally, the sub-study presented in Article 3 focuses on the more specific challenges that law students face as they take part law as an evolving knowledge field. 'Navigation' is a central concept in this article. The upcoming chapter seeks to position the thesis in the research field by showing how the analyses partly draw on and extend existing research on learning challenges within higher education more broadly and legal education more specifically.

3 Positioning of the thesis

Given my theoretical starting point, as explained in Chapter 2, I position this thesis by presenting a two-part review of previous research. The first part of this chapter aims at overviewing different aspects of students' engagement in a—for them—new knowledge field within higher education studies. I highlight how different strands of research from various domains have developed insights into the structure and action levels of social practices in students' introduction to a knowledge community. In this section, I present studies from various fields that have shown the importance of moving beyond knowledge as content in exploring students' initial participation in knowledge practices as they engage in problem-solving learning activities. The chapter also overviews specific aspects of law students' encounters with the field of law in studies from undergraduate legal education and how such research is conducted. This part presents studies representing different theoretical strands and methodological approaches underpinning my choice to zoom in on concepts and norms for problem solving, and in particular, legal texts to explore law students' initial participation in knowledge practices.

3.1 Students' ways into knowledge communities

Students' introduction to knowledge communities has been understood differently over time, which is reflected in the use of different concepts—enculturation, enrolment, and initiation. Within research on newcomers' introduction to knowledge domains, we have witnessed a movement from considering students' introduction to a knowledge field as a particular ways of thinking to also include aspects of 'doing' and identity development. In the following sections, I elaborate on these developments and position my thesis regarding different research strands.

3.1.1 Learning to participate in the established practices of a community

An influential strand of research takes as a starting point the idea that knowledge cultures are stable entities (Becher & Trowler, 2001; Donald, 2002; Pace & Middendorf, 2004). Here, taking part in a knowledge community becomes a matter of mastering the discourse of a given discipline by appropriating higher order thinking processes. One influential study within this strand of research was conducted in eight disciplines (Donald, 2002). This

research includes interviews with students and professors; it also includes observations of classroom activities and tutorials, student logs and surveys, and various analytical approaches. In their analyses, Donald et al. paid attention to the practices involved in students' introduction by focusing on the structures of the course content, its principles of validation, and methods of inquiry. Their study, along with others within this strand has shown how knowledge is structured in different disciplines while emphasising the kinds of higher-order thinking processes that are required and learnt in courses. Recently, a gradual development in research on teaching and learning in higher education has been witnessed. We see more practice-oriented studies emphasising the complex demands of professional work, which focus on the need to move beyond learning as changes in ways of thinking to include other dimensions (Anderson & Hounsell, 2007; Lave & Wenger, 1991; Stevens et al., 2008; Sullivan et al., 2007).

One dominant position in research on professional learning focusing on newcomers' pathways is the situated learning tradition (Lave & Wenger, 1991; Lave, 1993). From this tradition, the learner gradually becomes a member of a social community; here, learning entails 'growing' into a profession through legitimate yet peripheral participation in communities of practice. The concept of learning trajectory has been used to study professional learning and 'becoming a professional' from situated and sociocultural perspectives (Lave & Wenger, 1991). These perspectives have induced practice and the formation of professional identities into studies of learning and has contributed insights into the importance of students accessing core practices of a community in increasingly advanced ways (Sullivan et al., 2007). Moreover, it has also helped to understand how social activities are both structured and enacted in different organisational contexts. This approach has also shed light on the complexity of learning in higher education and the social and communication aspects within local educational contexts.

Such a perspective on newcomers' ways into a profession has consequences for what we know about learning challenges, as it tends to focus on understanding the challenges of becoming a *student* in different fields. A focus on learning beyond thinking is important for my approach in the current thesis from legal education and is something I draw on from this tradition. This research strand has, however disregarded tracing relations between what happens in educational contexts and the structural aspects of knowledge practices, which risks overlooking connections and 'meeting points' between education and the wider knowledge field and how it develops (Jewson, 2007; Nerland, 2018). To avoid overlooking these

connections, student learning is understood to occur between established and evolving practices within a knowledge community.

3.1.2 Coming to know in evolving knowledge domains

In parallel with an interest in different dimensions of student learning in higher education research, we also witness a development towards a more process-oriented view of knowledge in studies of learning. Characteristic of studies within this research strand is that they aim to understand learning as part of wider knowledge dynamics that span settings in both education and work, as they focus on social practices that include standards and procedures for specific knowledge fields (Anderson & Hounsell, 2007; Jensen et al., 2015; Stevens et al., 2008).

Within these strands of research, we see studies with an interest in exploring the learning challenges students encounter as they begin to take part in knowledge fields that are evolving (Anderson & Hounsell, 2007; Lehtinen, Hakkarainen & Palonen, 2014; Markauskaite and Goodyear, 2017; Stevens et al., 2008). Learning is seen as taking part and gradually mastering forms of acknowledged work with knowledge that involve creating interpretations and using knowledge resources in a dynamic relationship. Furthermore, this research takes an increased interest in what students *do* to make sense of and apply core knowledge resources to engage in problem solving in recognised ways in new contexts, and how they go about distinguishing relevant from less relevant in situations where established practices are challenged. My analyses in this thesis builds on this strand of research. In the following, I will present two studies from different disciplines in more detail, both of which focus on moving beyond knowledge as a stable entity and understanding learning as way of coming to know.

The first study I will highlight is an ethnographic research project from undergraduate courses in different disciplines (the ETL project). It combines large datasets of quantitative and qualitative data from courses in economics, biology, electrical engineering, and history (Anderson & Day, 2005; Anderson & Hounsell, 2007). This project primarily aims to develop an in-depth understanding of the *epistemological challenges* that undergraduate students encounter while participating in these courses. The project focuses on how students understand and position themselves concerning specific ways of thinking and ‘doing’, for instance, history or biology. The researchers collected data through surveys and interviews with students and staff. As part of this research project, a framework for what they denote as *disciplinary practices* (DP) related to what counts as evidence was developed. DP concern the

processes of creating, judging, and validating knowledge expectations about how practitioners should orient themselves towards theories, accounts of subject matter, and evidence. This framework included exploring the ways of thinking and ‘doing’ the discipline, questions related to how such disciplinary practices were mediated by lecturers and interpreted by students, and how the influence of context led to congruence or dissonance among students. As an example, in their analyses of undergraduate courses in history, the authors argued that learning to reason as a historian involves taking part in DP that implies interpreting and using knowledge resources dynamically (Anderson & Day, 2005; Anderson & Hounsell, 2007). At the student level, interviews with students were conducted about their sense of purpose, expectations, and ways of thinking and practicing history. This project has shown the significance of examining how students grapple with epistemological challenges in taking part in the specificities of practices involved in ‘doing’ history. Through accounting for the heterogeneity and complexity of processes involved in enculturation into a discipline as students start to use historical primary sources, this study has brought important insights into the challenges students face as they engage in the specificities of using these resources.

The second study I address is a longitudinal ethnography from four engineering schools that followed students throughout their undergraduate years (Stevens et al., 2008). The researchers conducted a person-centred ethnographic approach and emphasised students’ performance and their connections to the wider knowledge field within educational institutions in their analysis of the students’ pathways. Their study aimed at taking into account a broader set of organisational practices where the ‘[...] *engineering in the making is embedded and through which she or he charts out a course*’ (Stevens et al., 2008 p. 355). By combining developmental and comparative analyses of ethnographic interviews with engineering students, they developed a framework that included three dimensions of professional learning: *accountable disciplinary knowledge (ADK)*, *identification*, and *navigation*. First, ADK refers to actions that, when performed, are recognised as knowledgeable. Second, identification denotes developing an identity with what is acknowledged as valid knowledge. Within this framework, this process of identification was understood as a double-sided process ‘of positioning ourselves and being positioned by others’ (Stevens et al., 2008, p.357). Finally, the third concept in this framework, navigation, was used to draw attention to how students orient themselves to a broader set of socio-material and organisational practices in professional education in which they need to pass some thresholds for what counts as professional knowledge. Within this framework, students’ navigation was expected to be

more or less ‘smooth’, depending on the distinction in what counts as legitimate ways of ‘doing’ knowledge.

The study displayed how these three dimensions of enculturation relate to each other and contribute to opening up the relationship between knowledge and learning in the process of becoming an engineer. Within this framework, the process of identification and navigation was shown to be closely related to what became acknowledged as knowledge and by whom in different contexts. First, the study identified shifts in ADK over time. Moreover, the study illuminated similarities and differences *between* students in what became ADK and in various educational contexts, as students moved through formal and informal settings as part of their trajectories. It also displayed characteristics of how students navigated differently based on what became ADK in different contexts. Finally, it revealed how students developed an identity related to the subject matter and the differences in the ways in which institutions officially identified students as engineers, formed their identification of themselves, and their future commitment to the field.

Other research traditions have highlighted the *materiality of social practices* in conducting studies in higher education and on professional learning. This research pays particular attention to how core material tools and practices that are mobilised and used in educational settings become interlinked with wider networks of knowledge (Damşa & Nerland, 2016; Mäkitalo & Säljö, 2017; Nerland, 2018). The value of focusing on material tools and practices is that it allows for in-depth insights into learning challenges students face as they participate knowledge practices, and how such participation can be supported in educational settings.

In summarising this first part of the chapter, I will emphasise the importance of understanding students’ way into a new knowledge domain as more than developing a mind-set or executing predefined sets of actions. Here, I will highlight the need to understand the students’ enactment of knowledge practices and the role of materiality in this respect. Taking a procedural view of knowledge—focusing on participation as coming to know—is particularly important when conducting research on exploratory problem-based learning activities because these contexts are about solving complex problems. From such a point of departure, I will highlight the need for deeper insight into the specific challenges that students in educational contexts face as they try to understand and apply knowledge resources in problem-solving contexts. Thus, in the following sections, I will discuss some studies from different research traditions, which specify some key conventions and knowledge resources that are important in

extensively developing insights into *law students'* initial participation in knowledge practices and the challenges they face.

3.2 Students' learning in legal education

Studies exploring what is important for initiation into law as a knowledge domain have mainly highlighted legal reasoning and what it means to develop higher order thinking skills, which characterise jurists' thinking (Donald, 2002; Stratman, 2002). Donald and colleagues' research project 'Learning to Think' (presented in Section 3.1.1) also included legal education. This study revealed that legal concepts, the use of textual sources of law, and the enactment of norms for applying authoritative texts in new contexts structure students' ways of reasoning. Their research showed that higher-order thinking processes, such as sorting, defining, distinguishing, and analysing (Donald, 2002 p. 188), are core components of thinking like a lawyer. Furthermore, they highlighted how learning to understand relations between legal concepts and hierarchies of core concepts and subordinate ones guide students' thinking processes. The study also emphasised how making a legal argument is at the heart of engaging with knowledge in law and that a methodology of legal judgment helps create core ordering steps, such as categorising facts, issues and results in a case, analysing reasons, and critiquing them distinctively and constructively (ibid p.195). Finally, since systematic reasoning based on precedent cases is at the core of engagement with knowledge in the field of law, legal texts are considered core resources for students.

3.2.1 The language of law — the role of concepts

An influential strand of research literature has shown how initiation into the disciplinary culture of law depends on how students learn to master the professional discourse of law schools (Blückert, 2010; Mertz, 2007; Minnis, 1994). Through focusing on undergraduate legal education as a form of socialisation into the language of law, studies from this strand have shown that legal concepts are central to shaping students' legal stance to human conflict.

In a well-cited ethnographic study of first-year contract law courses within eight American law schools, Mertz (2007) analysed interactional patterns in classrooms from a sociolinguistic perspective to explore how transformation processes can occur in first-year courses. Mertz identified a shared underlying epistemology imparted in the classrooms characterised by a (...) '*removed vision of the world and of human conflicts*' (p. 10). This epistemology tended

(...) *'focus on form, authority, and legal linguistic contexts'* (p. 4). Moreover, the analysis shows that this distanced and dispassionate stance to human affairs was mediated by technical legal terms, and that the dialogue was characterised by establishing linguistic contexts in which concepts in use created this distance. Based on these analyses, Mertz argued that employing such a vision serves as a tool in engaging with legal issues, as it helps students to see these issues from different perspectives: *'This new habit may actually force you to hear perspectives and ideas that you might previously have dismissed too rapidly. Before rushing in to take one side or the other, you find that you can stand back and weigh aspects of the problem at hand with an eye to realistic solutions and possibilities'* (Mertz, 2007, p. 10).

Another core finding in Mertz's study was that the procedural aspects of developing a legal stance to human affairs occurred *inside* the procedures in the classroom activities. Mertz concluded that although there is a transformation in classroom interaction, the kind of transformation that happens is as much in how students approach *language* as in how they think. Consequently, to contribute to and participate in such classroom practices, students need to 'pick up' these implicitly taught procedures (Mertz, 2007).

Furthermore, Donald's (2002) study of legal education also highlighted the importance of understanding legal concepts in relation to one another within conceptual hierarchies. Donald underscored the significance of students' learning to get a hold of how concepts are interlinked and that students need to make sense of these relations by applying concepts in new contexts. Moreover, Donald argued for developing designs that allow students to explore such connections. However, research on what students themselves do to make concepts into tools for learning in problem-solving activities remains limited.

3.2.2 Texts and intertextuality in law

Written sources of law are authoritative texts for jurists' practice, and as future practitioners, law students must learn how to handle various textual sources that are related to one another and apply them to established norms (Donald, 2002). Taking as a starting point the intertextuality of law, studies from an epistemic belief perspective have examined law students' comprehension of and ability to extract and combine specific information from multiple texts (Bråten & Strømsø 2008; Stratman, 2002; Strømsø 2003). By adopting think-aloud protocols exploring how students individually comprehend multiple texts, this socio-cognitive research strand has shown how students' reading in and between texts is related to

their ways of visioning and viewing knowledge and knowing. In the following, I will present a study among seven first-year law students from the University of Oslo, Norway.

Strømsø (2003) used individual interviews and think-aloud protocols at three points in time during the students' first year. Strømsø focused on the amount of textual resources chosen by the students, what kinds of texts they turned to in their studies, and how they approached these selected sources. The study displayed how more varied learning strategies, such as a combination of elaboration and metacognitive strategies, were more frequent when students moved in and between written sources and when the textbook was used to develop a better understanding of legal statutes as a core professional source. Strømsø also observed that the textbook was the dominant knowledge source among the students, and that this textbook orientation was characterised by a limited set of reading strategies as memory strategies combined with metacognitive strategies at the section level. Strømsø argued for the need for students early in their legal education to have opportunities to gain experience working with multiple sources to solve tasks. This research from a multiple texts tradition illustrates the importance of textual structures for learning in law. However, to develop a deeper understanding of law students' initial participation in knowledge practices and the associated challenges, empirical studies of how students' progress to using different textual sources in problem-solving work are also required. In the upcoming section, I present two studies of law students' joint work on case assignments, on which this study builds.

3.2.3 Law students' collaborative problem solving with legal sources

In Section 3.1, I argued for the need to develop deeper insights into the specific challenges students in educational contexts face as they make sense of and apply knowledge resources in problem-solving contexts. This also applies to the field of law and legal education. In the following section, I will highlight two case studies from structured introductory courses in first-year course settings that draw on analytical concepts from socio-cultural theory as well as highlight materiality and performativity of social practices. Both studies examined knowledge practices at the level of social interaction by analysing law students' collaborative work with case assignments with their use of textual sources.

The first of these studies is from an introductory legal course at a Swedish university highlighting learning in law as gradually appropriating institutional forms of knowing (Mäkitalo, 2013). Taking as a point of departure that learning often happens when responding

to challenges in situations where problems or tasks are about to become categorised, Mäkitalo's study focused on categorisation practices in the group work of law students. This study followed students as they were in the process of categorising a set of narrated events into a legal case and displayed interaction data from the processes in the students' group work⁴. Mäkitalo explored how the discussions unfolded over time and focused analytically on how practices evolved in the students' collaborative work as they made sense of the legal categories materialised in the legal texts. The analyses revealed that the students were challenged by the legal discourse in the texts. The study also illuminated the core practices involved in the students' work to overcome these challenges and to transform these narratives into a *legal* case. To appropriate the institutional ways of categorising, the students needed to separate their own understanding and experiences of human affairs from the legal category. The study also demonstrated how students moved in and between different practices, such as through categorisation and particularisation. Moreover, it showed how justification practices were important, as they helped the students to notice possible counterarguments as a starting point for detailed readings of the texts. In sum, the study showed that the students' work depended on the availability of textual sources as meditational tools in their collective attempts to construct a legal case.

Through exploring students' categorisation practices, Mäkitalo's study highlighted how understanding a legal category in line with a legal discourse is an important learning challenge for students, which involves participating in textually mediated practices. Thus, considering the materiality of social practices is important for developing insights into the learning challenges that undergraduate law students face as they participate in the knowledge practices of law as a knowledge community.

Jensen et al. (2015) explored data from a one-week, method-oriented introductory course, which also forms one of the datasets utilised in this thesis (cf Table 1, Ch 1). The study, conducted as a part of a larger research project in three different professional education programmes, explored students' collaborative meaning making with legal texts as core professional resources (other publications from this data-material; Damsa, Nerland & Jensen, 2017; Jensen & Strømsø, 2018). By combining concepts from a network tradition with socio-

⁴ These narrative events were provided with descriptions of conflict-filled situations within a fictitious working environment. The students were given the task of deciding whether these situations were a case of discrimination and, if so, what kind of discrimination.

cultural theory to understand how student learning is formed and shaped in the ways in which people and knowledge resources interplay, the study focused on how law students become ‘enrolled’ in their professional field by engaging in professional-specific knowledge practices. Three teacher-led colloquiums were followed over a week via participation and videotaped observations. The students’ problem solving was analysed as participation in knowledge practices, where the instructions and demonstrations from the teachers were understood as carriers of collective beliefs of the profession’s knowledge.

Arguing the need for developing frameworks that can capture the dynamic relationship between knowledge as historically developed, evolving institutional arrangements and student experiences, the researchers illustrated how concepts from network traditions can be put to work to facilitate studies of the multiple levels and linkages involved in supporting enrolment processes (Knorr Cetina, 1999). Initially, ‘epistemic practice’ was used as an analytical tool to capture the students’ ways of constructing knowledge as they collaborated on solving a case assignment. This concept was concretised further using intermediary concepts, such as acts of exploration, specification, and justification. This approach showed how the students’ vast knowledge practices led them to move between confirmatory and exploratory actions in their problem-solving activity. The study further illustrated how the way in which the course was structured helped establish a productive relationship between education practices and the wider knowledge field. It displayed how the legal texts, the case assignment, and the procedures for how to explore such sources created a structure within which the students worked and where connections to the ways in which the field develop were made. Moreover, the analysis also indicated a similar interplay between exploration and closure in the students’ group processes, which has been shown to stimulate learning and commitment to knowledge domains in the context of professional work (Jensen & Lahn, 2005).

Both studies presented above build on data from students’ collaborative work within structured introductory courses, which are characterised by a high degree of instructional and textual scaffolding. Concurrently, the studies accentuate the importance of considering the materiality of social practices to understand learning challenges in legal education. In this thesis, I also include analyses of students’ collaborative work with case assignments somewhat later in their education—when students are expected to identify and use knowledge resources more independently. In this study, I explicitly explore learning challenges, as they are expressed in exploratory activities.

3.3 Summing up

In Chapter 2, I argued for the importance of developing insights into knowledge practices at the structural and action levels in studying students' introduction to knowledge communities. In this chapter, I accentuated the need to develop deeper insights into the challenges students encounter while engaging in knowledge practices at these levels by focusing on how students orient themselves and find a way to organisational practices and to a broader set of sociomaterial practices and how such practices evolve. Developing further insights demands studies examining learning challenges in the context of higher education, which take as their point of departure a processual view of knowledge.

Previous qualitative case studies following undergraduate law students' problem-solving activities (Mäkitalo, 2013; Jensen et al., 2015) and studies from undergraduate legal education (Donald, 2002; Mertz, 2007) have highlighted concepts, legal texts, and norms for using such texts in problem solving as central connections between knowledge practices at structural and action levels. Studies from legal education have also revealed concepts and legal texts as mediating tools, and have highlighted the key role that using different texts plays in developing sophisticated learning strategies for law students (Strømsø, 2003). However, we need empirical studies that can explore the micro-processes involved when resources transform into tools for action as well as the challenges students face in that respect.

From this chapter, three overall problems of taking part in law have emerged and are important to explore more in depth. These three problems are (1) the challenge of learning with concepts in law, (2) the challenge of acting according to norms for problem solving, and (3) the challenge of finding ways to explore issues in acknowledged ways in evolving parts of the field. This thesis contributes to new insights into these overall problems.

In the upcoming chapter, I will present and account for the overall design and the methodological approach I have used to explore learning challenges and knowledge practices in undergraduate students' collaborative work with case assignments.

4 Research design and methodological approach

In this chapter, I present the research design and the methodological approach I used to explore knowledge practices and learning challenges in legal education. First, I present my overall design. As part of this, I outline some key methodological principles that informed the research process and the analysis in the three articles and that reflect the thesis's theoretical grounding.

4.1 An interactional approach

'Our ever-evolving approach to studying knowledge in use continues to invite careful attention to interaction between people and among people and things'
(Hall & Stevens, 2015, p. 100).

To study learning challenges and knowledge practices in legal education, I draw on insights from ethnographic research traditions (Green & Bridges, 2018), and interactional approaches to studying knowledge in use (Hall & Stevens, 2015). Interactional ethnography (IE) is an approach characterised by entering purposefully designed educational programmes to gain insights into what students need to know and do and to focus on how spaces of knowing are constructed and accounted for as students learn from and with others (Green & Bridges, 2018). IE-inspired studies commonly aim to capture the complexity of authentic learning environments, such as problem-solving activities, and do this through collecting various types of data, including interaction data, to follow cumulative learning sequences over time (Bridges, Botelho, Green & Chau, 2012). Inspired by such a tradition, I have entered into two course contexts in legal education designed to introduce students to core resources and systematic ways of working characteristics of legal work. The course contexts are further chosen as they aim to facilitate exploratory work through collaboration.

To delve into the practices students will participate in and gain a grounded understanding of the challenges students face as they are introduced to a new knowledge domain, I collected various types of qualitative data from these two course contexts (see Section 4.2.2 for an overview of the data). Although inspired by IE, my aim has not been to follow learning sequences as they cumulate over time. Instead, my approach has been more focused on the students work with selected knowledge resources within shorter time sequences. While in the analysis included in Article 1, I pursue the conceptual work in the students' interaction,

Article 2 focuses on problem solving and textual sources of law. In Article 3, I focus on the more specific learning challenges students face taking part in law as an evolving field by zooming out on the structural aspects of knowledge practices.

To focus analytically on students' interactions to develop insights into knowledge practices and learning challenges in legal education, I build on a set of methodological principles that are founded on some key theoretical assumptions specified in the theory chapter. The first principle I will highlight is the need to study knowledge in use as a social activity, as Hall and Stevens argue: *'A first step is to recognize knowledge in use as a social activity or practice, something that people are doing in diverse settings and with consequences (for themselves and all) that far outstrip the walls of a laboratory or a classroom'* (Hall & Stevens 2015, p. 75). This demands that we study students' initial participation in practices as they are enacted, *in situ*, or to use the words of Hall and Stevens, to study knowledge in use (...) *'requires that we leave our offices to go see what people are doing in settings where their disciplinary understandings involve or even produce both subjects and matter'* (...) (p. 75).

A second methodological principle is the significance of exploring students' mediated action through analysing interaction in collaborative work. This principle is related to another fundamental theoretical assumption, namely that learning is considered an accountable activity (Hall & Stevens, 2015). This implies that the students learn as they need to account for what they do as they approach questions and problems, which implies that they need to justify choices and show validation of their use of resources.

Finally, a key methodological principle for my research is that practices — and the way collective knowledge and conventions are inscribed in texts and artefacts — can be traced by identifying what students *do* with resources *in situ* and by focusing on what enables their performance. From a performative view on knowledge practices, as accounted for in Chapter 2, I pay attention to how knowledge resources requiring meaning-making and how they can take on different functions in revealing new avenues and enacting foci for their actions and activities (Säljö, 2009). Following interactions among learners in exploratory educational contexts, which are characterised by access to key professional resources, is relevant in that forms of knowing are *' (...) transacted in unfolding moments of time but that is often connected (as evident in participants' talk and actions) by participants themselves to broader scales of time, place, and social relationships'* (Hall & Stevens 2015, p. 100).

An implication of these basic assumptions and principles is the need for studying activities as they unfold in natural settings, with sensitivity towards how language and materiality come together in students' enactments. In the following, I will more describe the details of the research design, including how the data was collected.

4.2 Empirical contexts and data

Course activities was my starting point for studying the students' interactions when they work with problems and engage with knowledge resources from law as a knowledge domain. Before describing the data, I will present the two course contexts in more detail.

4.2.1. The two course contexts

The thesis is based on analyses of qualitative data from two course contexts—an introductory course and a second-year course in international law. Both courses employed an inquiry-based educational model, meaning that the students were expected to identify questions to explore and use different sources of law to work with these questions. I entered courses in the 1st and 3rd semesters, respectively. This allowed me to explore knowledge practices and learning challenges within two exploratory learning contexts that are scaffolded and represent progression in the students' work and way of organising their work.

The first case from the introductory course was a case in which the design and data collection were led by other researchers within a larger project⁵. Colleagues at the University of Oslo (Department of Education) established contact with the Faculty of Law and were responsible for recruiting teachers and students. I participated actively in the data collection and handled the data collection from one of the teachers' seminars with the corresponding student group. In the second case, from a course in public international law, I developed the design and handled the preparatory processes, which implied that I was responsible for the recruitment of groups and teachers, as well as for the data collection.

The first empirical context included was an intensive one-week, method-oriented seminar at the University of Oslo, locally known as *A walk-through of central legal sources*⁶. This course primarily aimed to develop an initial understanding of the various knowledge sources

⁵ The Horizon-project included in-depth studies of educational activities in three programs for teacher education, legal education and software engineering education.

⁶ In Norwegian: Rettskilder til fots.

of law simultaneously as students were introduced to systematic ways of legal work. The course revolved around one complex case narrative about a used car purchase (see Article 1 for a summary). The story comprised several actors and disputes. It followed a temporal structure and was intertwined with details that were more or less relevant from a legal perspective. The students were given the task of identifying the legal parties involved in the story and their conflicts before arriving at a solution using the main sources of law. Each day, as indicated by figure 1, the students were introduced to a new source that they were expected to explore to acquire information that could assist them to resolve the case.

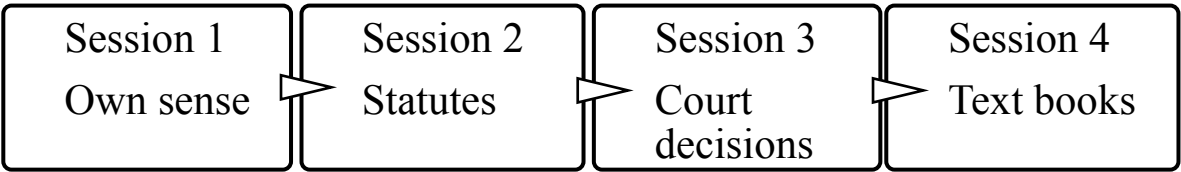


Figure 1: The process order of the sources introduced in the course design

The approximately 300 students enrolled in the programme were divided into 34 teacher-led seminar groups, with each group comprising 12 to 16 students. The teacher-led sessions ran 2 hours daily, and the students were expected to work both in smaller colloquium groups (4 to 6 students) and individually between each session. The colloquium groups were organised beforehand. The teachers involved in the course had a pre-meeting to discuss the aims and instructional strategies, and their work was supported by a schedule provided by the course leader describing what topics and legal sources should be focused on in the various sessions. Based on the teachers’ interest, we followed three seminar groups and one smaller colloquium group from each of these seminars.

The course in Public International Law—also a one-week intensive course—was selected as a second course context by consulting staff members at the Faculty of Law. In their third semester, the students were introduced to public law at the national⁷ and international levels. This course included EU/EEA-law as a more specific form of public international law, and what was characterised as a more ‘general’ public international law. The course took place three weeks before the exam. The participating students were expected to identify the legal issues addressed in four complex case narratives and identify key legal sources in working with these cases. The teachers’ work was supported by a teacher’s guide. This guide included descriptions of the aims of the cases, the key legal problems the students should address, and

⁷ *Statsrett* (public law). EEA-law and general public international law

some considerations concerning difficult or challenging aspects in the assignments. The course included five teacher-led seminars (Figure 2).

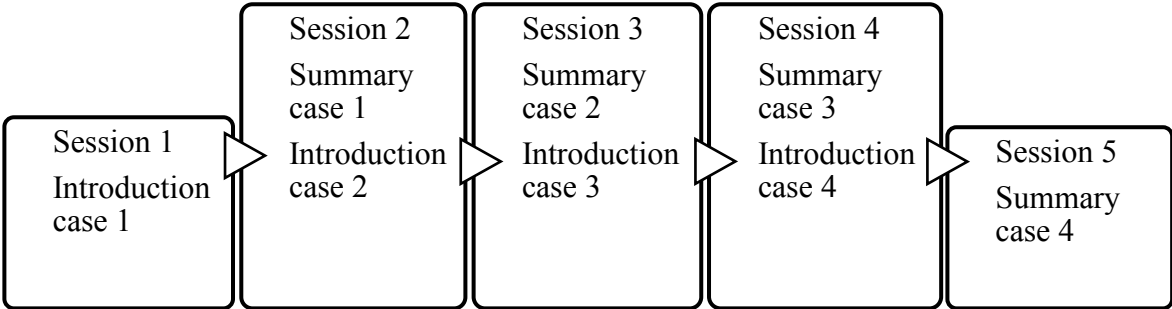


Figure 2: The overall course structure

Unlike the introductory course, the students in this course were not divided into colloquial groups in advance. Nevertheless, we observed that students were encouraged to work together on the tasks between the teacher-led sessions (1–5). The number of students in the teacher-led seminars varied between 15 and 25. The process of working on each assignment can be visualised as follows:

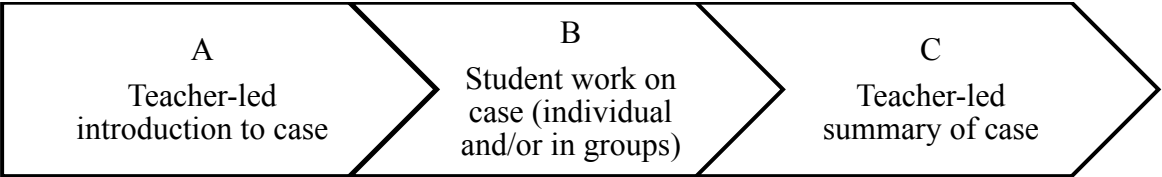


Figure 3: The process of working on the case assignments

The assignments the students worked on were presented as open-ended narratives, comprising a mix of existing and fictional actors, such as state authorities, international organisations, national NGOs, and leaders of industrial groups. The stories included conflicting sets of disputed actions and events that occurred at specific times in a temporal structure. In working with the cases, the students had various textual resources at their disposal, including a selection of 300 basic global and regional treaties, alongside the book of Norwegian Laws, a section of international Treaties, a compendium comprising a selection of court decisions for the second year, and finally two textbooks in public international law⁸. In contrast to the introductory course, the students in this course were expected to discover what sources to use to address the issues. Two seminars and two student groups were followed over the week.

⁸Students can choose between different textbooks within EEA law and general public international law.

4.2.2. The data material

To be able to go in depth into processes involved as students work with cases using texts, I explore different data. Table 2 overviews the data sources included in the two datasets.

Table 2: Overview of the data collected in the datasets

Data sources	Data collected	
	DATASET A Used for article 1 First-year introductory course (beginning of 1 st term)	DATASET B Used for article 2 and 3 Second year Course in international law (end of 3 rd term)
Observation of student group work	Video-recordings of group discussions, 3 groups (24 hours) Core data	Video-recordings of group discussions, 2 groups (18 hours)
		Article 2 Core data
Observation of teacher led sessions	Video-recordings and field notes, 3 groups (30 hours) Supplementary data	Fieldnotes and audio-recordings, 2 groups (20 hours)
		Article 2 Supplementary data
Semi-structured interviews		Video-recorded interviews with 2 student groups Audio-recorded interviews with teachers (individually) (5 hours)
		Article 2 Supplementary data
Legal texts and course documents	Lecture slides, textual sources, course descriptions, instructional material Supplementary data	Course descriptions, textual sources, instructional material
		Article 2 Supplementary data

The first part of the data collection was conducted during August 2013, while the data collection from the second-year course was conducted during the spring term 2014⁹. The empirical materials comprise of video-based observations of group activities in two weeklong inquiry-oriented courses, were students' work with case assignments, observations of teacher-led activities, interviews with students and analysis of course material and texts.

As shown in table 2 above, three colloquium groups were selected from the introductory course (A). These three groups were followed based on the teachers' interest in participating. Each these groups were recruited from three different teacher led seminar, more specifically via lists of students who had signed up for the different seminars. Recruiting students from the second year course (B) became more demanding than expected. I presented the project at lectures and seminars. I also received help from both the teachers involved and administrative staff at the Faculty of Law informing the students about the project. Two groups signed up at this stage. Although ending up with two groups, not three as aimed for, it quickly became clear that the video recordings from the students group work provided rich data, and I could conduct multiple analyses of the dataset. Dataset B, included observations of student groups, teacher-led sessions as well as interviews with the students and the two teachers involved in the seminars. These interviews were central to understanding the epistemological challenges that students face as they take part in a new knowledge community.

The collected video data from students group work in two courses comprised 42 hours of task-focused talk among 4–6 students. In addition, dataset B also included 5 hours of interview data and audio of teacher-led seminars. In the following, I will describe the data, and how it was collected.

4.2.3. Observations

In this project, I adopted two different observation strategies—video and participatory observations. In addition to taking wide-action footage of the students' colloquial work, I collected field notes from the teacher-led sessions.

The video recordings of the students' collaborative group work constitute primary data in the project. Using video in studies of social practice has its clear strengths, as it enables

⁹ Comment on the dataset B: I conducted preparatory observations of teacher-led courses in international law in February 2014. Based on these initial observations, I prepared for the data collection later the same semester.

researchers to obtain data that is not possible with other kinds of technology (Derry et al., 2010). To use video to record students' group work was a collective decision in the first case. I decided to use video also in the second course, as it allowed me to listen to the interactions among the students in the groups and to identify knowledge resources that were taken up and used in the students' work. Using video in the two courses also allowed me and my colleagues to explore the purposes and functions these sources served in allowing the exploratory work to continue. The cases were complex, meaning that the students needed to identify multiple relations between actors and questions to solve the framed problems and explore them in-depth. Some of the groups used the blackboard to structure their collaborative work. Using a video recorder also made it possible to follow how questions, texts, concepts, etc. were negotiated and made sense of, alongside what ended up as resources they used or disregarded in their work. In both course contexts, we relied on students' self-recording. This approach was selected because it allowed the students to work at their own pace. The groups received instructions on how to use the camera and the audio recorder. In addition to a short oral instruction in using the camera and demonstrating and guiding the students in setting up the camera on the first day, the groups were also provided with written instruction as support. Because of the need to get hold of what is important for students to understand and do as they participate in knowledge practices, I was also present in teacher-led sessions. As the teachers' instructions and demonstrations can be understood as carriers of collective beliefs about the profession's knowledge (Jensen et al., 2015), I wanted to get recordings of parts of the seminar where they presented and summarised the cases. My solution when collecting data in the second year course was to combine these audio-recordings with field notes, partly because I mainly focused on the students' work and lacked the opportunities to get approval from all students who participated in these seminars.

4.2.4. Interviews with students and teachers

I also conducted interviews with students and teachers in the second year course. This enabled elaboration of instances that appeared during interactions and served to contextualise a broader background of the interactions in the students' group work. Four weeks after the course had occurred and shortly after the exam was completed, I conducted two group interviews with the student groups and individual interviews with the two teachers. I could have conducted the interviews right after the course had finished, but I made the decision to

postpone the interviews for a few weeks because of the students need to spend time preparing for their upcoming exam.

I developed an interview guide as the basis for the interviews with the students. In this guide (Appendix 5), I combined open and descriptive questions concerning the students' experiences with international law more generally with specific questions about their experiences in solving the four case assignments in the course. In the interviews, the students were also asked about their experiences of collaborating on case assignments more generally. The interviews lasted between 50 and 80 minutes and were transcribed verbatim.

One strength of conducting group interviews was that the students could help each other remember details from working with the cases. I decided to bring the written narratives to the meeting, and I offered the students a short read of the texts before the interview started to refresh their memory, which they took the opportunity to do. Fixed roles and established group dynamics can influence the conversations during group interviews. An obvious challenge with conducting interviews in groups is to include all participants. There was, however, clearly a high degree of trust between the students in the groups, and they expressed both agreement and different opinions and willingly shared their experiences during the interviews.

I also conducted interviews with two teachers. In these interviews, the written teacher guide was the basis for developing the questions. The teachers were asked to comment on the various case assignments based on what the teacher guide highlighted. They were also asked questions that are more general concerning their experiences of facilitating students' learning within this course and their viewpoints on challenges students face while engaging in international law (Appendix 6).

4.2.5. Legal texts and course documents

From my theoretical position, where I highlight participation in knowledge practices as tool-mediated action, and is concerned with the performativity and materiality of knowledge practices, it was a natural choice to include different textual sources and documents in the datasets and use them as data material in the analysis.¹⁰ Several course documents were

¹⁰ Through the work of collecting data and participating in a previous article from the 1st semester course (see Jensen et al., 2015), I had learnt the importance of accessing the legal sources and textual

collected—case assignments and written sources students had available (as described in Section 4.2.1)—alongside written documents (the teachers’ guide). These documents became important data, as they provided insights into the conditions for the students’ work.

I accessed most of the written resources the students had available in their work, such as the compendium of international treaties, the book of Norwegian laws, the court decisions available in a compendium, and the textbooks in public international law and . By combining video and audio-recorders with orienting myself in the textual sources, I could identify how they approached the texts in their work. Using the texts was also important to check the accuracy of the transcripts.

As mentioned earlier, the teachers’ work was supported by a written teachers’ guide. We saw how this text was referred to by the teachers on more than one occasion during the course. In Article 3, the written assignments and the teachers’ guide were used actively in the construction of vignettes (Articles 2 and 3). This guide was also drawn into the development of the interview questions as a basis for going deeper into the expectations of the students’ on how to approach the cases.

4.3 Analytical strategy

As mentioned earlier, I assume that to develop insights into students’ learning challenges as epistemological challenges (Anderson & Hounsell, 2007) and how students proceed to handle these challenges in educational settings, one must take into account knowledge practices at the structure as well as on the level of action. To obtain both these layers of practice, I combined thematic analyses, which emphasised mapping practices and resources taken into the collaborative work, with analysis of the micro processes in the students’ work.

4.3.1 Thematic analysis

Doing thematic analysis involves moving between theory-driven categorisations and emergent themes from the data material (Braun & Clarke, 2012). In other words, it involves movements between deductive and more inductive processes. The thematic analysis as part of the analytical work here was conducted for each dataset, partly holistic and partly with

sources; therefore, I was also in the data collection of Course 2 concerned with obtaining all sources that the students employed.

somewhat different interests in each article. Making sense of qualitative data demands different levels and faces in organising. The dataset was subject to categorising. I base this on a broad understanding of the coding process as processes in which data are made meaningful and organised into themes (Braun & Clarke, 2012).

The first part of thematic analysis included sorting and mapping the data inductively (Braun & Clarke, 2012). Much of the initial process was conducted through repeated viewings of the video recordings, reading transcripts, making stops, taking notes, and creating tables with overviews of activities and the resources referred to and resources in use. In my case, this resulted in tabular overviews of the data material. The thematic analysis was conducted as *content mapping*, meaning that I focused on what was 'here', in the sense of what kinds of texts, actors, challenges, and concepts. This work involved asking questions that included what characterises students' practices in working on the case assignments, what resources they drew on in their collaborative work, and whether something new was opened up in the students' work, or if something was concluded through the application of a new source.

It soon became clear that the recordings of the students' talk, which was characterised as intensive and on task, resulted in large amounts of data. I therefore chose to do the first mapping on the video material itself before parts of the footage were selected for transcription. In the transcription work, I focused my attention first on introductions and summaries in the groups' work on the case assignments. I focused on these phases because, after the first view, I had seen how these introductions and summaries provided insight into key issues, and what resources had been taken up and used (or not) in the students' work.

As my primary unit of analysis was mediated action in situated practices, I focused analytically on how resources are used in students' talk, what is mobilised of opportunities, and new questions through these sources. This initial mapping provided some insight into what characterised the students' approaches to the case assignments. Working on these broad themes was a key starting point to progress from the overall data corpus to a more theoretically informed focus in the articles. The overall thematic approach made it possible to highlight some consistent patterns in the students' approaches to the exploratory activities. It became apparent that the way students approached the assignments was highly question and discussion oriented, and that the students largely focused on textual sources.

Through the initial mapping of the students' work, we saw that the students were oriented towards question formulations and how to find these formulations, and towards texts, and

how to find their way to a concept in these texts. Based on this mapping, I constructed more theoretically informed categories, resulting in more specific themes for the three articles. The thematic analyses conducted as part of Articles 1 and 2 were theoretically informed, meaning that in these two articles, I was concerned with the performative aspects of concepts and norms of problem solving. In Article 1, I focused on the functions of the concepts in the student's learning, while the thematic analysis in Article 2 involved categorising the ways students approached the tasks to ensure that they found an issue that they could keep open for exploration. Moreover, with an interest in the materiality of knowledge practices, in Article 3, I directed the thematic analysis towards how students constructed spaces for action to solve complex issues in an evolving part of the knowledge field. I approached the data thematically as by focusing on what sources the students turned to and what status these resources were ascribed in the students' collaborative work. The three analyses that undertake the articles use different analytical concepts to overview the practices the students engaged in and the role of different knowledge resources at play in this work. I will now describe how I moved on to gain more in-depth insights into the knowledge practices and the learning challenges in the two courses.

4.3.2 Process analysis of students' group work

To explore knowledge in use, I have followed up the thematic analyses with process analyses that were focused on the students' work with knowledge resources in a more detailed way.

The way I conducted the process analyses for Articles 1 and 2 reveal common features. I pursued emergent interactions in their natural context. Here, I focused on problems that are on their way to becoming resolved, towards the talk and interactions in the students' work, particularly considering the way they used concepts. I also focused on various functions legal texts take in regulating practice in the group work and as mediating tools in their exploratory activities. In conducting these analyses, I adopted principles from interaction analysis, which distinguish between a participant-close and descriptive approach to transcriptions (analysis on the first level) and a second level analytical step, which implies adding a layer to the transcriptions. In my case, this analytical strategy implied that I first approached the transcriptions by keeping close to the students' utterances and their use of legal texts before I made more theory-informed analytical comments. The details in how these analyses were conducted are described slightly differently in Articles 1 and 2 (Part II).

My choice of level of transcription reflected my interest in the students' problem solving and their use of textual sources, and not on the linguistic details in their communication. In the transcription of the video footage, I have therefore selected a level of transcription where I pursued content in the students' work, not details in their language work.

The thematic analyses for Article 1 identified different conceptual functions, and how they were present in the students' work. The in-depth analysis for this article zoomed in on the interactional processes in the group work, focusing on what the students concretised and clarified to make legal concepts tangible so that they could move forward in their work. Also in Article 2, the in-depth analysis focused on student interactions to gain insight into how they go about to explore problems in line with a profession-specific norm. To delve into what the students *did* to keep problems open for scrutiny over time and the role the legal texts play in this matter, I zoomed in on the interactional processes to pursue problem solving through concepts were mobilized, how arguments were justified, how new questions were generated and explored as the students attempted to find directions for further investigations. To highlight the micro-dynamics in the students' conceptual work (Article 1) and their collaborative problem solving (Article 2), I displayed short excerpts from the students' interactions. I selected excerpts based on the thematic analysis. These excerpts showed examples of patterns and central features of students' interactions. I selected excerpts showing episodes that were transformative in the students' work (see Articles 1 and 2 for further details on how the data were represented).

For the purpose of gaining insights into students' learning challenges in law as an evolving field, I conducted an in-depth process analysis *in Article 3* where I needed to zoom out on the structural level of the knowledge practices. To explore more in-depth learning challenges students encounter as they need to delineate their space for action in solving complex problems, I constructed vignettes from the students' work on two assignments in public international law. The design of vignettes served partly as a tool for my analysis focusing on the navigational challenges students face in finding their way in an evolving field and partly to represent data and ensure grounding of analytical claims in the article. An advantage of constructing vignettes is that they can allow you to make visible how different times and spaces come together in the students' work (Hall & Stevens, 2015). The vignettes were constructed by following excerpts from students' conversations where the dialogue stopped and they did not progress in their exploration. Moreover, I included information from the

teacher guide, assignments, and observation data from the teacher-led group to develop a more in-depth understanding of what these challenges were about.

The construction of vignettes demanded somewhat more extensive editing compared to ways of representing the data in the analyses presented and discussed in Articles 1 and 2. To do so, I adopted a few more novelist presentational techniques to represent the challenges (Richardson, 1995; Humpreys & Watson, 2009). I included parts of the written teacher's guide and transcripts from the students' talk in vignette 1. In vignette 2, I also included data from the teacher-led sessions. Using techniques such as drawing on various data sources data from different actors, locations, and times, alongside selecting and combining excerpts from written course documents, summaries of events, and short excerpts of interactions, was necessary in bringing out the challenges in a grounded way.

4.4 Reflections on the research credibility of the project and its findings

Credibility of research involves questions concerning reliability, validity, generalisability and ethical considerations. In the following section, I will explain how I approached the work as part of this project to ensure credible research.

An important part of increasing **reliability** is through the process of describing and transcribing the video and audio recordings. To ensure reliability, the context in which the data sources were gathered and how the data was handled were both described, including criteria for choosing episodes for in depth-analyses. Data sessions were also shared based on excerpts that were more extensive as a basis for identifying the presentable excerpts of interaction. Translation of transcripts was a danger to reliability. The question of translating from Norwegian to English (for Article 2 and 3) was demanding when faced with knowledge practices that are closely related to texts, concepts, and language (Mertz, 2007). To handle the challenge and avoid becoming 'lost in translation' (Temple and Young, 2004), translating from Norwegian to English was postponed until the initial parts of the analysis were conducted. Translations were discussed with a jurist and an education researcher. These rounds of translation helped balance the requirements for accuracy with the need for accessibility.

Validity relates to key questions such as do my data serve the purpose of answering the research questions and address more specific questions such as 'Are my interpretations and

claims convincing, and is this research useful beyond its immediate context?’ Since all the research findings require interpretation, the most important ‘instrument’ in research practice is the researchers, and how they go about doing and describing their research. In this summary, and in the articles comprising the thesis, I tried to be transparent about the epistemological positioning of the thesis, the analytical assumptions made, and the logic of the inquiry in the project. Moreover, in the articles I /we also sought to be transparent about the context of the research, how the analysis was conducted, and the sources in use. In this project, I investigated the research questions by collecting and analysing different kinds of data sources and included two datasets, which allowed me to draw more robust conclusions than using one source of data. Combining observations with interviews in the students’ second year of legal education was important in strengthening validity in the study. These interviews provided insights into the experiences of the transition from the first to the second year and the challenges students deal with in such a movement.

I presented and discussed preliminary findings in several arenas at different phases in the process, such as in the research groups, Nordic forum for EU/EEA-law (with legal scholars), and NATED (National Graduate School in Educational Research). While working with the articles, colleagues commented on drafts of articles, including researchers from the Horizon-project. I also presented papers and discussed posters at international and national conferences and seminars. These different feedback sessions increased credibility.

Generalisability: Although qualitative educational research cannot be generalised as in quantitative research, I would argue and work for this research to be *relevant*, and that it serves some purpose beyond the context of my study. When using qualitative data to express patterns in social dynamics and relations, we call it ‘analytical generalisation’ (Nadim, 2015). The analytical categories guide the explanations and processes we want to generalise to contexts (Nadim, 2015). To draw conclusions from a research project such as this, I, in conducting the three sub-studies, emphasised describing the research settings, basic assumptions and the analytical procedures as thoroughly as possible. I also emphasised relating the findings to other studies described in this thesis. In this way, I have made explicit the basis for generalising statements about students’ learning challenges, experiences, and processes relevant to their initial participation in knowledge practices so that others can consider this.

4.4.1 Relations to the field and ethical considerations

Several ethical considerations need to be made in different parts of a research project. The research conducted in this thesis followed the research ethics guidelines for processing personal data for the social sciences. One core ethical principle in conducting credible research is the principle of informed consent (Kvale & Brinkmann, 2009). This consent should be informed, explicit, voluntary, and documentable (NESH Forskningsetiske komiteer, 2016/2019). Before I started, I registered the project for the Norwegian Centre for Research Data (see Appendix 1¹¹). I gave oral notification of my plans at the beginning of the semester and provided written descriptions of the project's aim to students and teachers.

There are also ethical challenges associated with using a camera as part of doing fieldwork. One of these challenges relates to how students themselves need breaks. One group in particular established a clear distinction between 'on' and 'off record' in their group work. As the students controlled the camera, they paused the recordings during breaks. In transcribing the data, I was aware of the students' need for privacy during breaks.

Finally, doing credible research in exploring knowledge practices and learning in education also involves being aware that, as an educational researcher, you also – at least to a certain extent – start to appropriate ways of knowing in a new field. This is one hand a necessity to be able to interpret the activities in valid ways. At the same time, it may be problematic because it can be difficult to keep an analytical distance to the data. Prolonged time in the field is a strategy for credibility in studies based on fieldwork. Because the courses were intensive, I did not spend a long time in the field on each course. At the same time, the project seen as a whole, I *did* spend time with law as a field over a longer time. To ensure the necessary analytical distance to the data, I used different strategies. An important strategy here was to focus on the overall research questions, and repeatedly ask myself, 'Why is this interesting here?' To ensure the necessary analytical distance using analytical tools, intermediary concepts are also important. Alternating between presenting and discussing analyses along the way with both supervisors, representatives from the field of law, and the research community at large have been crucial to validate my interpretations.

There are limitations to the way I collected and analysed data. One limitation concerns my focus on similarities between groups to develop in-depth insights into learning challenges,

¹¹ The Horizon-project is registered at the NSD with the project number 32373 at NSD.

and how these challenges are handled. I would have provided a richer picture of students' learning challenges if I had also focused on differences between groups in their approaches to problem solving or on the various case assignments' potential in the students' work. Another limitation is that the in-depth focus on students' group work is done at the cost of following more students over a longer time span in their educational trajectory. Despite such limitations, my view is, however, that these three analyses together provide useful insight into students' initial participation in knowledge practices of law. In the next two chapters, I present the most important findings from the articles and discuss them from theory and research in the field

5 Summary of the articles

In this chapter, I present a summary of the three articles comprising the thesis and their findings.

5.1 Article 1

Enqvist-Jensen, C. ‘Hva er en mangel?’—Begreper og deres mange funksjoner i jusstudenters læringsarbeid (‘What is a defect?’— Concepts and their different functions in law students’ learning)

Article 1 aims to deepen our understanding of the mediating role of legal concepts in undergraduate law students’ learning. Previous research in legal education has highlighted concepts as core tools in shaping students’ legal stances on human affairs and conflict (Donald, 2002; Mertz, 2007, Mäkitalo, 2013). We lack, however, more detailed insights into how students learn to use concepts appropriately as part of legal problem solving and, more specifically, how concepts serve as tools for law students’ learning. Article 1 contributes to existing research by analysing in detail how student groups explore and use concepts in their work on a case assignment. Videotaped discussions from 12 meetings in three student colloquium groups within a weeklong problem-based introductory course were analysed. The two following questions guided the analysis: 1) How do students go about developing an understanding of concepts while working with the case assignment, and 2) What functions do the concepts take in the students’ learning activities?

Four *conceptual functions* served as an analytical starting point for exploring the students’ conceptual work. First, the analysis showed how the concept served a *structuring* function in the students’ work when they started to understand a concept. This function implies that the concept in use served to create order and structure in the students’ work, as they identified questions to explore as part of working on the overall problem. Second, it showed that the concept took on a *relational* function as the concept itself developed and became more specified regarding other concepts, contexts, and texts. Third, the concept served a *transformative* function in their work, in that it transformed the students’ ways of exploring and considering the overall problem in the case assignment. Fourth, it took a *communicative* function as conceptualising the conflict in the case allowed the students to justify and elaborate on the case at hand.

The analysis showed that it was not the different functions in themselves, but the way these interacted in the groups' exploratory activities that allowed the students to identify with the concept as a legal concept, which was a key to solving the problem in the case. Two characteristics of the students' work came through as important for the different conceptual functions to interact. First, the analysis highlights the key role of legal texts as a mediating tool in the students' work. Through moving in and between textual sources of law that were successively building on one another, the students could identify and explore different aspects of concepts and conceptual relations requiring specification and elaboration. This study thus has provided insights into students' conceptual learning as central to knowledge practices, and the way such learning is textually mediated. Second, the article also brings to the fore the value of the student dialogue for the students to understand legal concepts, as it displays how the students repeatedly tested, articulated, and justified their initial understanding of concepts and their relations in conceptual structures. Hence, the study has also provided insights into how these knowledge practices are worked on early in legal education, especially regarding understanding and using concepts as a key challenge in the students' learning process.

Finally, the study accentuates the importance of providing insight into students' knowledge practices at the micro level to understand how concepts transform into tools in student learning and how to facilitate such transformations.

5.2 Article 2

Enqvist-Jensen, C., Nerland, M. and Rasmussen, I. (2107). Maintaining doubt to keep problems open for exploration: An analysis of law students' collaborative work with case assignments. *Learning Culture and Social Interaction*, 13, 38–49.

<https://doi.org/10.1016/j.lcsi.2017.02.001>

The aim of the analysis presented in Article 2 was to unpack how students learn to take part in knowledge practices as they solve problems in accordance with norms for investigating profession-specific problems. In the legal domain, 'sustained doubt' is highlighted as a core principle and a standard for investigation that should be realised and secured in legal practice. This norm entails keeping problems open to exploration and making the exploratory process transparent. This norm is expressed in legal work as legal problems continue to unfold through rules for interpreting authoritative sources of law (Bertie, Good & Tarabout, 2015, Latour, 2010). Despite its key role in the legal profession, we limitedly know how students appropriate this aspect of legal problem solving. The article draws on perspectives on learning

as intrinsic to participating in knowledge practices, which are informed by discipline-specific tools and procedures that form problem-solving processes (Wertsch 2007, Säljö 2009).

Moreover, it takes as a point of departure an understanding of doubt in performative terms (Säljö, 2010). From such a theoretical and analytical stance, the sub-study took an analytical interest in the forms of talk and interactions in students' group work as well as the role that legal sources play in producing and maintaining doubt in the students' collaborative work. The following questions guided the analysis: *1) How is legal doubt produced and maintained in the students' interactions? 2) What role do the legal sources play in this process?*

18-hour videotaped discussions in two colloquium groups within a second-year course in public international law were analysed. The analysis from the meetings (8 in total) was conducted in two steps. First, by identifying recurrent knowledge practices in the groups. Second, through micro-oriented analysis in one group of what constitutes these practices, how they were performed in the students' interactions, and what functions they serve (Derry et al., 2010). To explore the students' work in detail and show the complexity of law as a distinct form of expertise, the article used elaboration, specification, and justification as intermediary concepts. These concepts were used to explore further the knowledge practices identified in previous studies (Jensen et al., 2015) with an specific interest in the principle of maintaining doubt.

The analysis revealed how the students oscillated between a set of recurrent knowledge practices that involved transforming actions into questions and relating concepts to each other contributed to sustaining an exploratory mode. By focusing the analysis on students' talk and their use of textual sources in collaborative group work, the study showed that the students' interactions, legal texts, and the students' use of professional procedures and principles for investigation constituted an exploratory dynamic through which doubt was collectively produced and maintained in the group work.

The in-depth analysis of the exploratory processes in one student group also showed that the way they interacted and took responsibility for asking questions, justifying claims, and trying out arguments contributed to both producing and reproducing 'proper' doubt (Latour, 2010). Thus, this study provides insight into how students go about exercising, making their exploration transparent, and how the group interaction plays a key role in doing so.

5.3 Article 3

Enqvist-Jensen, C. (2018). Navigating fluid epistemic spaces—Emerging challenges for knowing and learning in public international law. *Studies in Continuing Education* 40(3). 257–272. <https://doi.org/10.1080/0158037X.2018.1445984>

The internationalisation of law brings new actors, challenges, and problems to the fore, which challenges established procedures and practices (Faulconbridge & Muzio, 2009; Lang, 2012; Waibel, 2105). To address how such recent developments in the knowledge field of law challenge ways of learning and knowing in legal education, students' group work with four case assignments was observed, and interviews with the students and teachers were conducted within a second-year course in international law. Article 3 focused on students' collaborative work with case assignments and asked: *What learning challenges do the students face when solving cases in international law?*

Also, grounded in a perspective on learning as intrinsic to participating in historically developed and textually mediated knowledge practices (Markauskaite & Goodyear, 2017; Mäkitalo, 2012; Säljö, 2009), *fluid epistemic space* and *navigation* were used as analytical concepts in this study. I draw on Markauskaite and Goodyear, who take as a point of departure that learning to engage with profession-specific problems implies developing a capacity to operate with ideas, which can be understood metaphorically as building and inhabiting blended spaces for action. These epistemic spaces need to be constructed in problem-solving activities. The core idea for using *fluid epistemic space* for this article was that, compared to more stabilised spaces for action, fluid spaces contain more interpretational possibilities and that constructing spaces in educational activities, implies integrating different forms of knowledge and making it 'actionable' in new contexts. *Navigation* (Stevens et al., 2008) was also used as a concept to draw attention to how students relate to a broader set of practices in professional education in making sense of what becomes *their* space for action as they draw upon knowledge resources available in educational activities and relate to expectations of student behaviour expressed in such contexts.

The dataset included 8-videotaped meetings in two student groups (18 hours), observations of 12 meetings in two teachers' seminars (20 hours), audiotaped individual interviews with two teachers (2.5 hours), and videotaped group interviews with the students (two hours). The data was analysed thematically (Braun & Clarke, 2012) regarding what sources the students turned to and what status these resources were ascribed in the students' work. Also, episodes where

the students found it difficult to move forward in their work on the cases were identified and subjected to a process analysis, focusing on how the students created their epistemic space in exploring the cases in these situations. These episodes were further examined through interviews with students and teachers to provide a better understanding of the observations and to elaborate on what the challenges were about. Two vignettes from two different case assignments in one student group were constructed to illuminate how these challenges arose in this complex learning environment.

Three learning challenges were identified as prominent in the students' work. First, the analysis showed that it was difficult for the students to identify relevant knowledge sources in a field with fewer authoritative texts to build on. Second, when faced with disagreements on what counts as valid in a less stabilised and transparent part of the field characterised by the presence of more actors, viewpoints, and controversies, the students struggled with deciding what should be given authority in framing questions and deciding on a relevant concept. Finally, the analysis also showed that the groups faced difficulties in finding professional resources that might help them justify their choices within a legal discourse without speculating or 'crossing over' into other practices.

The sub-study also provided insight into what it means to assemble epistemic spaces that can form epistemic environments for engaging with problems in the field of law as an expanding and evolving knowledge field. The study has shown that navigating fluid epistemic spaces in problem-solving contexts demands assembling various resources and tools that can take different functions as part of creating a space for the students to engage in knowledge practices. Finally, the study revealed tensions in the educational context and conflicting expectations of navigating such spaces. The study shows the importance of understanding students' navigational challenges due to unresolved or less stabilised practices in the knowledge community and conflicting expectations regarding what counts as 'good' student practice when students encounter fluid epistemic spaces.

6 Findings and discussion

6.1 Introduction

In this chapter, I will bring together the main findings from the three articles included in this thesis and discuss their overall contribution to existing research on law students' learning challenges in undergraduate legal education. The chapter also discusses how this study emanating from students' collaborative work with case assignments provides nuances and perspectives on ways of understanding and investigating the epistemological dimension in student learning in the context of higher education more broadly.

The thesis builds on the assumption that conventions for acknowledged knowledge work are manifested in material resources over time and become enacted when different tools are activated in problem-solving activities. From this starting point, the thesis addresses a need identified by other researchers (Anderson & Hounsell, 2007; Cunningham & Kelly, 2017; Damsa et al., 2017) to examine further the challenges students face as they are introduced to knowledge practices in their professional community. Therefore, the thesis set out to explore knowledge practices and learning challenges as they manifest in undergraduate law students' group work in two course contexts, as students make sense of and apply knowledge resources when working on case assignments. The thesis was guided by three research questions. First, I asked RQ1: What characterises knowledge practices students are introduced to in undergraduate legal education? I also asked: RQ2: What learning challenges do the students face as they engage in these practices?

Moreover, to develop insights into what the students *do* when they start to solve problems following standards and conventions in law within exploratory and inquiry-oriented learning activities, I employed *epistemic space*, *assembling*, *appropriation*, and *navigation* as analytical concepts. These concepts are partly overlapping, but highlight different aspects of students' participation in knowledge practices, and they were used to open up mediated action in students' problem-solving activities as the primary unit of analysis. The thesis finally asked: RQ3: How can the thesis' choice of analytical concepts contribute to generating a better understanding of students' initial participation in knowledge practices in law?

I will now summarise and discuss these three questions as a way of bringing out the thesis's empirical, methodological and theoretical contributions. The chapter is organised as follows.

In Section 6.2, I address the first question by summarising and describing key characteristics of the knowledge practices that appear central to working on the case assignments in the two course contexts. In 6.3, I integrate findings from the three articles, focusing on how they contribute to a deeper understanding of law students' application of concepts, norms, and texts as central learning challenges in law. Here the analyses are discussed in light of existing studies of learning challenges in undergraduate legal education. 6.4 discusses how the analytical concepts and theoretical perspectives in the thesis provide insights into law students' participation in knowledge practices. Finally, in 6.5, implications for educational practices and research are discussed.

6.2. Knowledge practices in the two course contexts

The analyses presented in the three articles identified a recurrent set of knowledge practices that the law students take part in as part of their collaborative problem solving in the two course contexts. As defined by Kelly, these practices denote '(...) *the specific ways members of a community propose, justify, evaluate, and legitimize knowledge claims within a disciplinary framework*' (Kelly, 2008, p. 99). These practices are fortified and regulated through conventions in the professional field while being enacted differently in different situations. Thus, the way these practices are enacted in educational settings is consequential for students' participation and learning.

Through the articles, the thesis highlights some key characteristics of knowledge practices in law that were present in the groups' joint work. These knowledge practices concern ways of identifying and framing judicial problems in case narratives; they involve ways of decomposing and examining judicial conflicts systematically, and the ways of legitimising claims and justifying arguments. The analyses also showed that enacting such practices occurred as the groups oscillated between examining the sources of law and their potential relevance in the case context. The analysis revealed that the various practices are important to meet key standards for legal problem solving—securing transparency in claims, ensuring that solutions are founded in an adequate legal source, and assuring that 'sustained doubt' is maintained until all relevant aspects of a case are addressed (cf Article 2).

Through the detailed analyses presented in the articles, the thesis reveals the knowledge practices enacted by students and how—and to what extent—the structural layer of these practices regulates actions in the students' work. It also ultimately reveals the key drivers for

the practices to be upheld and developed as part of exploring a legal problem. These practices have some characteristics regarding regulation, space for manoeuvring, and participation requirements.

First, we observed that one characteristic of knowledge practices in law, as expressed in the groups' work, is that they are procedurally regulated. In other words, how to enact these practices—such as how to justify, evaluate, and legitimise relevant questions or knowledge claims—happens through methodological rules and procedures established, framing legal issues, and applying sources according to specific rules. Previous studies on legal education have identified practices in legal education as regulated by a methodology of legal judgment (Donald, 2002, Jensen et al., 2015). As I revealed through these analyses, it becomes evident that conducting procedurally regulated knowledge practices does not mean engaging in one possible order of exploration only, but that finding ways to frame questions or validate claims can take place in more nonlinear ways. This was particularly evident in Article 2, which showed that the students' enactment of doubt as a norm of problem solving was characterised by such movements within a common framework.

Second, all three articles demonstrate how the practices are also *vastly textually mediated*. Throughout the analysis, we revealed that students activated different textual sources—legal statutes, international treaties, court decisions, textbooks, and other texts, for different purposes. These textual sources mediated different practices as part of the students' collaborative work, such as specifying and validating questions or concepts. The analyses illuminated how legal statutes and international treaties mediate ways of framing general problems and delineating the area of relevance specified by establishing the scope of a law. The practices also served to realise important standards for problem solving, such as securing transparency in claims and ensuring that solutions are founded in a relevant legal source.

Third, I showed that *concepts* are important drivers of participation in knowledge practices. In particular, Article 1 explored in depth the functions of concepts in the group work. What emerges from the thesis as a whole is that legal concepts must be contrived by taking part in a more specific textual universe that is relative to the problem that is under scrutiny. In other words, the concepts are important drivers for legal sources to be assembled as part of participating in the core practices of the legal profession.

The three sub-studies highlight how concepts, texts, and methodological rules both structure and keep knowledge practices enacted as the students worked on the different cases. This

shows that law students, through their knowledge practices, access the discourse of law, the professional language of law, and resources of the legal profession. These findings thereby follow Donald (2002), Mertz (2007), and Mäkitalo (2013), as discussed in Chapter 3. They found that these different resources were important tools for students' development of a legal stance towards human conflicts and for appropriating legal categories as part of their initial way into the field of law. In this thesis, I bring nuances to previous research by displaying how concepts and texts transform into mediating tools for students' participation in knowledge practices. By focusing on the ways of 'doing' knowledge, this thesis makes visible the significance of the procedural aspects of participating in a new knowledge domain. Although an emphasis on such aspects may seem evident in professional education, it is not the case that such aspects of learning are made transparent and supported in educational programmes. Through previous contributions focusing on transformative mechanisms across different study programmes (Damsa et al. 2017), it has emerged that the procedural steps were more clearly highlighted in introductory courses in legal education compared to, for example, introductory courses in teacher education, which was more oriented towards conceptual understanding and theories of learning as an entrance to the knowledge domain. Precisely, because professional fields have different entrances that must be supported in course contexts, it is important to understand the challenges students face when they engage in such practices. In the following section, I will discuss these challenges in more detail.

6.3 Learning challenges in law students' work

While previous studies from undergraduate legal education have pointed to challenges in making norms, concepts and texts applicable in order to develop a legal stance to human conflicts and affairs (Mertz 2007, Donald 2002, Mäkitalo 2013), this thesis has focused on *how* these challenges are expressed and dealt with by students within two course contexts. Through exploring the micro-processes of students' work when they collaborate on profession specific knowledge resources to frame and work on these cases, the thesis has brought into view new insights into the challenges students encounter as they take part in knowledge practices of law. In the following sections, I will summarise the main insights provided across the articles in terms of how these challenges were expressed in the groups' work, how the students proceeded to handle such challenges in the course contexts and discuss the significance of these insights related to previous research.

6.3.1 Understanding and making use of concepts in legal problem-solving

The thesis has contributed insights into *conceptual learning* as a key learning challenge for undergraduate law students. As pointed out previously both obtaining conceptual systems in which legal concepts are interconnected and developing an understanding of how such concepts can be understood in light of each other, has proved important to learning in law (Donald 2002). Moreover, as revealed in Article 1 of this thesis, legal concepts serve different functions in students' work on the case assignment, including structuring the exploration or enabling them to communicate about legal phenomena and issues addressed in the narrative. The thesis demonstrated that it is important that these functions interact in the students' work to support their learning; however, this depends on how the students are allowed to handle and explore the concepts. Here, the thesis revealed some key learning challenges in the students' handling and exploring concepts as expressed in the two course contexts

An important challenge for the students was for the concepts to become *functional* i.e. getting hold of a professional concept so that it can begin to 'work back' on the learning process and thus for the progression of students' work to begin. Article 1 showed that the first challenge for beginner students was to start identifying with concepts through taking part in an exploratory activity that enabled them to move from an everyday perception of a concept to a *legal* concept. This activity requires that they not only find definitions of concepts in texts, but also explore different concepts both in relation to each other and in relation to different textual sources. This article revealed how the students, in order to start to get a hold of a concept such as 'deficiency' in their case (i.e. a concept related to consumer purchase law), were also required to explore several other related concepts.

Furthermore, the thesis has made it clear that in order to obtain concepts; one must also learn to identify questions in accordance with conventions within a field. The articles have shown how exploring a legal concept in relation to others is also about practicing ways to identify relevant questions for the exploration of legal cases. As pointed to in Article 2, the concepts played a core role for students in enabling them to participate in legal problem solving in line with key norms for recognised work. This sub-study reported here showed how the students faced the challenge of identifying relevant questions that could keep exploring a problem over time, and how this again was closely linked to identifying new concepts that they had to explore in light of other concepts.

The studies have shown how students handled these challenges. First, the analyses showed that *creating textual contexts* was important for understanding and applying concepts. Across the three articles, we saw that, in some instances, these contexts were in part activated as predefined sets of texts referring back to each other. Articles 1 and 2 showed how concepts had to be contrived by taking part in a more specific textual universe relative to the problem under scrutiny. What also emerged as a learning challenge was how to identify and delineate the space for deciding on how to understand a concept ‘here’ in this specific context (as asked in Article 1; what is deficiency here?). The analyses brought to the fore that constructing contexts where the students could identify relations between concepts was a core challenge.

As mentioned, students had to move between understanding and applying concepts in order for the concepts to take different functions in students’ learning activities. In Article 3, in particular, it became visible how important it was for the students to access the legal texts to allow this to happen. This article showed how the students’ conceptual learning became increasingly difficult when the students no longer had available texts to move between to make sense of a concept. When it was difficult to trace concepts and their relations to each other across different types of texts, it was also challenging to build questions and explore them in a structured way. This article revealed how questions about how a concept should be understood and what questions are relevant to explore became difficult when the students lacked a structure of textual sources to build on. Here, this study showed that delineating what is a relevant legal concept was challenging for the students. This was particularly evident in their discussions on ‘responsibility to protect’ (in vignette 2).

Overall, the analyses showed that dialogue plays an important role for enabling students to make sense of a concept so that it can work back on their learning and allow them to find out how the texts can function as resources in this process. The three studies showed how the way they tested their initial understanding of a concept by tracing it across different texts played an important role in handling these challenges. They used the dialogue to develop an explicit understanding of the way texts are interconnected in structures, and how they need to be activated for students to understand and start applying concepts in new contexts.

The analyses in this thesis have highlighted the importance of understanding conceptual learning as something other than internalising concepts. Furthermore, it also emerged that conceptual learning for beginner students, needs to be more than a conceptually mediated transformation of a legal stance to human conflicts (Mertz, 2007, Donald, 2002). In sum,

these analyses reveal that conceptual learning is about learning a professional concept and working *with* concepts and their meaning potential so that students can develop a deeper understanding of professional contexts and a repertoire for action. The dialogue between students was important in allowing this to occur.

6.3.2 Approaching problem solving in accountable ways

Previous studies from legal education have emphasised that using legal text needs to comply with methodological principles recognised in the field of law (Donald, 2002), and that these principles are important for structuring students' higher-order thinking, which characterises experienced lawyers' reasoning. By looking closer into what challenges students deal with when facing the complexities of problem-solving, the thesis has illuminated different ways of acting in accountable ways and provided insights into challenges students face in that respect.

As mentioned above, knowledge practices are structured by procedures and rules for applying texts. The thesis shows that an important challenge in participating in problem solving in recognised ways involves finding ways to act according to conventions and norms. The analysis in Article 2 showed that one way of acting accountably in law is to maintain doubt in framing problems to avoid drawing premature conclusions in legal problem solving (Donald, 2002; Latour, 2010). By exploring the students' actions and interactions as they attempted to keep an overall problem open for investigation, this article showed that the students were challenged in finding and using textual sources to frame questions that could allow them to keep the issue open. The same article also showed that another way to act accountably is to reflect on methodological rules in the knowledge field when sets of texts and established practices are insufficient to develop an understanding of a legal phenomenon or frame a question. Here, both Articles 1 and 2 showed how students, as part of their work with the case assignments, were challenged on how to connect and relate different texts, and what rules for the interpretation of treaties should be applied. The thesis also accentuated that finding these accountable ways is not always easy for students, which became especially evident in Article 3. This analysis showed that when students were set to solve issues in less textually materialised parts of the knowledge field, it became more demanding for students to identify their space for action while working on the cases.

Also, in the students' handling of this learning challenge, the thesis has revealed the key role played by legal texts and the importance of activating such texts. Here we saw that in order

for students to find ways to define and keep a problem open for exploration over time, they needed the texts. The studies show that the students moved back and forth between texts to find ways to validate an overall question that can stabilise the problem-solving work and find sub-questions and conceptual connections that can open for further exploration. Hence, the study showed that to act in accountable ways implies to establish structures of texts and rules for their applications, to both establish a common understanding of relevant questions and conceptual relations and to identify new questions or concepts that can contribute to keep up the exploration.

We also observed that for the students to handle this challenge, they needed the dialogue provided by the group work. The dialogue gave opportunities for posing critical questions, and testing various questions, and deciding their relevance to their case. The dialogue was also important as the students reminded each other of basic methodological rules in working. This was evident in Article 2. This article also illuminated how finding ways to act according to the norm of keeping complex problems open for investigation was such a demanding task that the students took on different roles and different positions in the discussion. They did this to ensure that different voices and perspectives were included in defining what to explore and what was yet to be resolved. Hence, the students' interaction was important in handling the challenge of ensuring that problems were kept open and reflecting on what it means to apply methods for using resources regarding solving cases.

Previous studies on students' collaborative problem solving in legal education have highlighted how participating accountably was related to institutional discourse and categories (Mäkitalo, 2013). This thesis provided insight into how students' problem solving occurs through meaning making, testing, and relating different resources, such as texts, actors, concepts, and problem formulations that belong to the wider knowledge field of law, and that these resources need to be made relevant in their specific context.

6.3.3 Finding and using resources when established norms are insufficient

As highlighted in Chapter 3, research on students' learning challenges has had its primary focus on learning as participating in established practices and has not considered sufficiently the challenges of coming to know in evolving fields. So has been the case in studies in legal education, although the field of law is evolving (Faoulconbridge & Mucio, 2009). The third learning challenge identified and explored in this thesis was that of finding and establishing

what resources to use and ways of using them when norms and conventions established in a field are no longer sufficient to engage in problem solving activities. Hence, in addition to examining learning challenges occurring when students attempt to participate in more established knowledge practices, the thesis has also brought to the fore the specific challenges law students need to handle when such established ways of using resources are no longer sufficient to identify issues, validate questions, explore concepts, or delineate a problem.

By focusing on the structural aspects of knowledge practices that students take part in as part of learning in legal education, Article 3 revealed how a more cumulative structure of texts and the growth of different communities of interpreters (Lang 2012; Waibel, 2015) in international law challenge students' knowing and learning in several ways. The analysis accentuated how practicing the norm of making exploration transparent was difficult without thick layers of text to identify arguments or trace concepts. The students' searched in selections of treaties and different court decisions that could be linked together to form a structure for them in tracing concepts and validating questions as they worked on their cases. This article showed that the students needed to find ways to use relevant knowledge sources in framing questions and validating knowledge statements from various communities of interpreters. This analysis, and particularly through vignette 2 and the discussions on whether or not responsibility to protect is a valid principle, confirms that the students found it difficult to deal with controversy and differences of opinion in the field.

Article 3 particularly revealed how taking part in public international law, which is a part of the field of law which is rapidly evolving, requires more of the students when creating meaning from concepts, problems, and questions which will allow them to clarify avenues for exploration. In other words, the students themselves had to use more space for interpretation in the meaning-making process to understand and apply legal concepts in new contexts. Article 3 showed that taking an active part in constructing and delineating such spaces was difficult for the students. Also, in handling this challenge, the thesis demonstrated the importance of the student dialogue, as the dialogue provided opportunities for critical questions and space for enacting doubt. The dialogue was also important for testing the relevance of texts on a case and for reminding the students of basic procedures for legal work. In sum: the thesis has highlighted how these learning challenges not only pertain to how students 'decode' the discipline and its established way of thinking (Donald, 2002; Middendorf & Pace, 2004, but also involved challenges where students face complex problems that demand making knowledge actionable in new contexts.

6.3.4 Summing up

The previous sections demonstrate that to gain insight into what students *do* as they participate in knowledge practices of law, we need to consider both the way that legal sources are used, the concepts in use in students' work, and the students' interactions in approaching such resources. These insights illustrate the usefulness of studying learning challenges in situ and in their specificity. At the same time it illustrates as important to pay attention to relations to the wider knowledge field in the students' work, by focusing on the way students draw on knowledge resources and in the way they "move" in the resources of the knowledge field. The approach of having the students to self-record their colloquium discussions was a productive way of getting access to their practices and learning challenges. Such small-group activities would easily be disturbed by the presence of a researcher, while the recordings secured detailed information about the situated actions.

It is also important to understand how students' exploratory activities relate to the field of law when exploring learning challenges. In other words, it is important to develop an understanding of the human interaction and the significance of the dialogue, but also the various functions of concepts, as well as materiality in terms of texts and how they mediate practices. By accounting for these different relations, the analyses of learning challenges in exploratory contexts have also highlighted a *space dimension* as part of students' participation in knowledge practices. The analyses revealed how the students worked in both confined and extended spaces. They worked in 'small' spaces as they collaborated on a case assignment within their colloquial group. Concurrently, to take part in these practices, they also had to move outwards and into the textual landscape of the knowledge field and ways in which the texts are structured hierarchically. I will now focus on the theoretical contribution of the thesis by returning to the third research question and the analytical concepts of the thesis.

6.4. Conceptualising law student participation in knowledge practices

To address relations between knowledge practices and learning challenges in undergraduate legal education I have focused on learning as tool-mediated action, in line with sociocultural theory of learning. From such a theoretical position, I followed processes of participation as these were expressed in students' dialogue. I have also been concerned with the materiality of the practices and the relations between what is happening here and now—in the students'

work on the cases—and conventions and rules in the field of law. I will now return to the analytical concepts—i.e., epistemic space, appropriation, assembling, and navigation—and discuss how these concepts have contributed to generating a better understanding of students' initial participation in the knowledge practices of law. I start with 'appropriation'.

6.4.1 Appropriation of tools

Sociocultural theory of learning has highlighted *appropriation* to understand how students get hold of knowledge and resources within a profession and make them 'their own' (Wertsch 1998/2007). Hence, in line with Wertsch, appropriation is characterised as a process of *identifying* with cultural tools. In this thesis, this analytical concept has allowed for the exploration of the processes and practices involved as students become familiar with and learn how to use profession-specific knowledge resources and tools appropriately in inquiry-oriented activities so that they can develop into tools for learning.

The thesis has shown that students had to make use of concepts, norms and rules for the application of textual sources when working collaboratively on working on case-assignments with legal texts. Through using this concept, the thesis highlights how opportunities to take up, grasp and test their initial understanding as part of making such resources and tools 'their own', is a key condition for participation in knowledge practices in the field of law. Thus, what I have seen through my analyses is in line with the theory in the field that highlights appropriation as an *active* process that requires testing (Wertsch 1998). Although the time span for this research was relatively short, I have shown how the students' emergent appropriation of these knowledge resources took place by moving between an initial understanding of the tool itself and the application of the tool in their work on the assignment.

Through these analyses, my findings are congruent with Mertz (2007) and Mäkitalo (2013), who specified the significance of legal concepts for students' participation in a legal discourse. Article 1 demonstrated the importance of appropriating concepts for taking part in knowledge practices in law. Furthermore, the analysis in Article 2 highlighted the importance of students identifying with exploratory activities following a standard for problem solving which is customary in the knowledge field. This article showed that appropriating such profession-specific resources also meant elaborating on and specifying ways of asking questions so that one avoided concluding too rapidly. This thesis supplemented previous research by accentuating how appropriating concepts and norms is an ongoing process that

involves practising, elaborating, and specifying aspects of concepts and identifying new ones that they also need to make sense of to move on in their work.

The concept of appropriation also highlights agency in student learning, as it shows how important it is for students to have opportunities to test their initial understanding of concepts and norms as they work on profession-specific problems. Such testing is vital for allowing the different resources to take on different functions in the students' work and thus develop into tools for driving the groups' exploration further. Through using appropriation as an analytical concept, the thesis revealed the identification aspect of learning as participation in knowledge practices (as accounted for in Chapter 2). The thesis revealed that making concepts and norms 'one's own' comes through as a transformational process that involves switching between making sense of and understanding the tool itself, alongside using tools in a new context. An additional dimension of the argument that appropriation is an active process, following Wertsch, is that appropriation takes certain forms depending on the knowledge practices in a domain. For instance, the way testing is conducted in law can be characterised as a movement *with* questions. This question-driven form of testing is particularly visible in Article 2.

The thesis also revealed the significance for students as learners to externalise their initial understanding through dialogue and that this is central to ensuring that the appropriation of concepts and norms can take place and continue after the initial introduction. The thesis illuminated that the way the students took responsibility for asking questions, justifying claims, and trying out arguments contributed to their initial appropriation of concepts. These movements allowed the students to make visible concepts in different textual contexts (as in different sections of a treaty and in court decisions, cf. Article 1 and 2). This means that an important condition for supporting law students' learning is to provide students with opportunities to work with concepts and norms for problem solving in different contexts.

Although appropriation of concepts and norms as tools has proved to be an important condition for participation in knowledge practices in undergraduate legal education, as in other educational domains (e.g., Levrini et al, 2015; Polman 2006), students cannot simply appropriate a single concept, a procedural rule, or an argument in a legal judgement. Rather, these resources need to be made sense of in relation to each other for the students to identify questions or delineate a problem for investigation. I also illustrated that it is not necessarily given *what* needs to be appropriated as part of taking part in acknowledged forms of knowing. To engage in the practices of the legal profession, students take part in a specific line of

exploratory work, which also implies identifying what the content should be about—as part of their learning. In other educational contexts where the content is delineated and defined by teachers and where structures in, for example, a textbook are used to get a hold of the content, it is perhaps more relevant to employ *appropriation* as a single analytical concept. However, this thesis highlights that we need supplementary concepts to understand the active framing needed in more open problem-solving contexts. To gain insight into this dimension of taking part in knowledge practices in law, I used the concept of assembling as an analytical concept.

6.4.2 Assembling knowledge resources

As Markauskaite and Goodyear argue, developing capacities for taking part in knowledge practices in higher education can be characterised as ‘building and inhabiting a blended space’, i.e. students need to learn to construct spaces for action that comprise different actors and their contributions (Markauskaite & Goodyear, 2017). By adopting *assembling* as an analytical concept, the thesis brings new insights into what it means for students to learn in inquiry-oriented activities in legal education. Using this concept, the thesis reveals the need for students to handle different knowledge resources. Furthermore, through the use of this concept the thesis shows that the way the students proceed to construct a ‘resource bank’, the way they identify what resources are relevant to them in the specific case contexts, and how they go about finding ways to set limits on their problem solving, are important conditions for participation. Across the analysis, we saw that the students’ activities in the course contexts implied putting different texts together to move deeper into the problems addressed in the case assignments. The analyses showed how some actors (e.g. judges, states, NGOs, scholars) and various actors’ knowledge products (statutes, treaties, court decisions from national and international courts, textbooks) were included in the students’ work to find arguments and ways of reasoning as part of acting according to a profession-specific norm.

Moreover, the concept made visible how the students, in certain cases, took a predefined set of textual sources as a point of departure. The analysis in Article 1 serves as an example, as it shows that the way the texts were introduced successively and built on one another allowed the students to identify and explore different aspects of different concepts and conceptual relations that had to be specified and elaborated on (Jensen et al. 2015, presented in 3.2.3). In our analysis we saw students put together and integrate different textual sources of law according to a specific order to explore the issue of deficiency in their case about a used car

purchase. This article thus shows how working within an integrated set of concepts and texts can help students identify some spaces for exploration early in the study, i.e. before they appropriate key norms for solving problems in the field of law.

The three analyses also illuminated how students sometimes had to construct a structure to work within to identify a relevant question or a concept. For instance, in Article 2, the students needed to construct an exploratory structure of texts and concepts to solve a problem over time. Furthermore, Article 3 found that students are increasingly required to find ways to assemble resources and that they can find ways to justify their choices when working with open questions. To understand how students find their way in an evolving field, the thesis adopted another analytical concept: *navigation*.

6.4.3 Navigating an evolving field

Studies of professional learning have been concerned with how students' participation develops over time and how they gradually move towards becoming members of a community of practice. As described in Chapter 3, the concept of learning trajectory has been widely used to study professional learning and 'becoming a professional' from situated and sociocultural perspectives (Lave & Wenger, 1991). Such perspectives have brought attention to how learning to participate in the established practices of a community implies both developing an identity, ways of thinking, as well as acting in acknowledged ways (Sullivan et al., 2007). However, by recognising that institutional trajectories are less fixed and that there are multiple dimensions to how students move in space and time, this thesis argued that we need analytical concepts that allow for exploring what it means to take part in evolving fields. Therefore, *navigation* has been used as a third concept in this thesis.

'Navigation' is central to the thesis, as it allows for gaining insight into how students 'move' in the resources that are assembled and activated along recognised lines of problem solving in the knowledge field. In this thesis, I have used navigation to address how students construct their pathways as they assemble and use knowledge resources in their collaborative problem solving within inquiry-oriented activities in legal education. This way of using this concept builds on the assumption that taking part in a knowledge community implies finding ways to acknowledge forms of knowing. *Navigation* as an analytical tool has thus brought attention to how the students in the courses relate to a broader set of practices in professional education in making sense of what becomes *their* space for action.

There are examples of researchers who aim for insights into how students' navigation is intertwined with other dimensions, such as temporality, space, and materiality (cf. chapter 3) for example Stevens et al. in their study from engineering education (2008). By using a longitudinal ethnographic approach in their study, they demonstrated how undergraduate students' navigation occurs in relation to what is recognised as acknowledged disciplinary knowledge, and that students' navigation can result in different outcomes and change through a course of study (cf. 3.1.2). In this thesis, from undergraduate legal education, I did not follow individual students' over time to examine their navigation. I have instead made visible how navigation also appears as an important process in students' group work with cases and that students 'move' into the knowledge field through the way texts are interlinked in infrastructures. This concept has allowed me to examine how students, to assemble these resources, need to 'step out' out of the case as a context and 'move' – imaginarily—in time and space—such as into the Supreme Court and back to a statute. Hence, navigating will also imply that students, even if they work in a local case context, also move in sources that are located across actors, contexts, and times. Thus, the concept of navigation allows for showing how the knowledge practices 'stretch out' of the local context in legal education and become linked to practices elsewhere. Although navigation happens over time, it also comes into play in one meeting, at one point, and not *only* in a five-year course of study.

Through the concept of navigation, Stevens's research has also demonstrated that finding students' ways to engage in the core practices of a profession could be more or less 'smooth', depending on the distinction in displaying what counts as legitimate knowledge in different contexts. From the way I used this concept, I also observed that finding recognised ways to enact knowledge practices became more or less smooth for the groups depending on access to infrastructures to navigate along. Through using the concept of navigation in this way the thesis shows how taking part in a new knowledge community implies moving *further* into the knowledge domain to identify questions or to trace concepts. Navigation thereby requires students to identify and relate to an increasing number of knowledge-producing and interpretive actors, such as national legislators, judges, and actors in international courts, as well as to consider other types of legal texts, such as international treaties and judgments of national and international courts. By including navigation as a dimension of taking part in knowledge practices in legal education, we see that the space the students act within gradually widens as they engage with assignments in more evolving parts of the knowledge field. At the

same time, we noticed that the directions for how and where to move to create such spaces become less clear (cf Article 3, part II).

Overall, these analytical concepts have contributed to insights into some key processes that have proved important for students' learning within exploratory learning activities. They have also illustrated the need to consider how students entail a broader set of socio-material and organisational practices in educational settings (Stevens et al., 2008). Moreover, it has become clear how important it is to develop an understanding of more dimensions of professional than internalising conceptually mediated higher-order thinking processes reflecting what it means to learn how to think like a lawyer (Donald, 2002). To explain what is important for students to take part in the knowledge practices of law, I returned to the final and more *overarching* analytical concept presented in this thesis: *epistemic space* (Markauskaite & Goodyear, 2017).

6.4.4 What does it take to construct an epistemic space?

As specified in Chapter 2, I take the starting point from Markauskaite and Goodyear's approach to professional learning in exploratory contexts, i.e. as constructing and delineating epistemic spaces for specific tasks (2.2.1). I have made use of this concept to explore more in-depth the basis for the students' work on the legal problems in the case assignments. To develop insights into what such participation means in exploratory student work in legal education, I see the need for students to construct *a number of* epistemic spaces. This concept has enabled me to enter into processes that are important so that students can find *their own* space for action as they face the practices of the legal profession in problem-solving contexts. The other concepts in this thesis (assembling, appropriation and navigation) have – seen together – provided insights into what students do to construct such spaces. I have shown how both appropriation of cultural tools, such as texts, concepts, and recognised question formulations and assembling various resources are important for constructing such spaces. In addition, I have demonstrated the importance of students finding their way into such spaces and that access to infrastructures of concepts and methods is important for students' navigation in problem-solving activities in their first year.

As pointed out by Markauskaite and Goodyear (2017), some epistemic spaces are more technical, some trans-epistemic (interdisciplinary, and at the limits) and some are more open (2017, p.121). Epistemic spaces that are constructed for the case assignments in the two

course contexts that both are characterised by a degree of openness. The introductory course is more stable and thus more 'technical' with an introduction to defined concepts and text. However, as shown in article 3, in order to navigate more fluid spaces students not only need to find ways to assemble resources, but also how to justify their choices. In one sense, we see a progression during the first years of study. On the other hand, there may be a lack of pedagogical support for navigating more open spaces were students need to find their way to a problem statements without “thick” layers of texts they can use as an infrastructure to guide them in their work (cf Article 3).

Stevens’ study illustrated how students’ professional identities develop around what is recognised as valid knowledge in different contexts at different stages in an educational programme. By following students individually over time, they learnt how identification and navigation processes can be expressed differently and change through parts of a course of study. They also highlighted how processes of ‘becoming’ – in this case, an engineer—are partly cumulative and build on each other through the course of a study, which shows why it is important to be aware that these are long-term processes that are in progress. This thesis contributed to in-depth insights into shorter time sequences, where I observed nascent signs of appropriation, navigation, and assembling of different resources in students’ work. Moreover, it seems that these processes help the students stabilise their initial understanding so that they can identify new arguments or explore, for example, new questions or concepts to progress in their exploratory work. Although such processes develop as part of students’ enculturation over time, this thesis accentuated that they also exist in the micro-processes in students’ everyday learning and that it is in students’ interactions that such processes of participation in knowledge practices can become intertwined and develop.

6.4.5 Summing up

Overall, the analytical concepts used here illustrated the need to consider both the action dimension and the structural dimensions of knowledge practices in analysing law students’ way into a knowledge community. The concept of *appropriation* underlines agency in students’ initial participation in knowledge practices. Through this concept, the thesis highlighted the importance of providing students with opportunities to test their initial understanding of concepts and norms so that these resources can play different functions in their *learning* activities. Also, the thesis— especially through the concepts of *assembling* and

navigation—showed that *what* is put together by different actors and resources, what kinds of resources are made available, and that what role various knowledge-producing or interpretive actors are attributed in situ are also important for how students proceed or what is defined ‘outside’ their space for action. Displaying and discussing processes involved in students’ participation in knowledge practices and how these interact in the students’ construction of epistemic spaces serve as a basis for thinking about what kind of support students need to make use of knowledge resources as tools for learning for different parts of their work. I will now discuss some implications for designing courses that can provide such support.

6.5 Implications for practice and research

In this final section, I will discuss some implications of this thesis for practice and research.

I start by highlighting the potential in conscious use of textual sources of law so that they can function as learning resources in law students learning. This thesis first revealed how texts—when assembled in structures—act as key learning resources in developing students’ understanding of concepts and ways of asking questions. Second, these texts function as learning resources when they mediate questions and aspects of concepts requiring exploration through other texts, which as shown in this thesis is key for students’ enactment of problem solving in accountable ways. This thesis has illustrated how one knowledge resource can be used in different ways depending on how a problem is interpreted and how expectations and social practices shape how a tool might be used. Furthermore, it showed how when the structures of texts are tested in the exploration of a case they can function as both “how-to-tools” and “where-to-tools” for the students. The analyses also showed that in order to construct and delineate an epistemic space students moved back and forth between different texts to get hold of the concepts and to find authorities that could be drawn on to substantiate and validate question formulations. Hence, the thesis, as a whole, has illustrated that texts can alternate as “how-to-tools” and a “where-to-tools” for students’ as they appropriate norms and concepts and assembling resources alongside navigating epistemic spaces in their work.

As pointed to by Strømsø (2003), working between different texts is a key aspect of legal practice, but also that the intertextuality of law can be a potential for students in developing sophisticated learning strategies (3.2.2). This thesis revealed that the way the students specified, elaborated, and justified when they worked in and between texts can be described

as more than expressions of general learning strategies; that is, it can be seen as specific and acknowledged ways of ‘doing’ knowledge in a profession.

However, it is not *given* that the texts serve a mediating function for students. As observed in Article 3, the way in which epistemic spaces are constructed in course contexts impacts what is recognised as acknowledged forms of knowing for students. It showed that in situations where the students were unable to assemble texts that could serve as an infrastructure for their work, they more quickly gave authority to the teacher’s viewpoint instead of asking each other for justifications or perspectives. It appears that, for students, actively constructing epistemic spaces and navigating them in such contexts demands a different kind of facilitation. This includes a need to think differently about which resources students need and how these resources are introduced so they can serve as ‘how’ tools and ‘where’ tools in students’ participation in knowledge practices. However, there is a need to explore further which resources can function as what Engeström calls why-tools in students’ construction and navigation of epistemic spaces as they engage with evolving fields (Engeström, 1990).

Another key aspect of developing course designs that can support students’ initial participation in the knowledge practices of law in undergraduate legal education is to make these practices transparent and visible in educational activities. Here, the thesis showed that the way the students tested concepts and texts, took several rounds, stopped, and read repeatedly in the textual sources to explore concepts, were important for their initial participation in knowledge practices. The thesis has thus illustrated both how core processes that are important for student learning take place in colloquial groups, and furthermore that exploratory collaboration can play an important role for students even early in a study. Consistent with Mertz (2007), who also emphasised the need to make procedures transparent in student learning, I therefore specified the importance of facilitating interaction and dialogue between students when designing such learning contexts.

Furthermore, this thesis points to the need for teachers to access students’ joint exploration and reasoning as they work on exploratory tasks. Overall, the thesis showed the potential for developing course designs that facilitate switching between individual, teacher led seminars and exploratory collaboration. Consequently, an important area of development is finding ways to make these profession-specific actions explicit through modelling, externalisation, and feedback (Jensen & Strømsø, 2018). Here, like Cunningham & Kelly (2017), I would also

like to emphasise that making practices accessible is also about assessing what knowledge practices in the *profession itself* that are important to incorporate into educational programs.

The thesis also serves as a reminder of the importance of suitable assessment practices and the development of ecologically valid forms of assessment. Concepts such as evaluative judgement and sustainable assessment underline this focus (Ajjawi, Tai, Dawson and & Boud, 2018; Boud, 2000). By accessing a course that took place just a few weeks before the exam, this thesis illustrates the importance of understanding navigational challenges in educational contexts characterised by tensions between changing expectations of what it takes to construct and navigate such spaces in an evolving field and established assessment practices. When developing assignments for assessment purposes, it is therefore important to be aware that the chosen forms will affect students' opportunities to make visible how they construct their epistemic spaces and navigate such spaces. Considerations such as what students are set to do, when, with what resources and within what timeframe, therefore, become important questions to consider when designing educational programs (Nespor, 1994).

Finally, I will discuss some implications for further research on student learning as participation in knowledge practices. This thesis from undergraduate legal education illustrates how combining articles that complement each other in the type of unit of analysis they examine allows insight into the connections between the structure and action levels of participating in knowledge practices. Furthermore, focusing on material and performative aspects of these practices as they play out in students' joint work on case assignments has made visible how useful it is to consider how spaces for learning are constructed and delineated in educational contexts. However, further research is required in this area, both in different professional educational programmes and in higher education more broadly.

I will also highlight the need to develop a deeper understanding of how participation processes both develop in parallel and work together as part of students' learning trajectories. To understand how different processes can play together in students' way into a profession and how such interaction between processes can be supported during a programme, I argue for the need to combine insights into the cumulative processes over time with in-depth insight into selected learning activities in smaller sequences. To gain a better understanding of law students' learning trajectories; it would be useful to supplement in-depth analyses in other educational contexts with more longitudinal approaches that focus on how professional identities develop in different ways. Combining methods can contribute to insights into

processes that are important for students' participation in knowledge practices and, consequently, how to best support students' development as professionals through the course of their educational journey.

In conclusion, I find that to facilitate students' participation in knowledge practices in higher education, we need insights into the learning challenges students face as they engage with such practices in educational settings. We also need to create epistemic environments where students, through exploratory dialogue among peers and feedback from teachers, can find ways to assemble resources and appropriate tools as part of constructing epistemic spaces and making the practices involved in this work visible and transparent. Lastly, we need to find new ways to support students' navigation in continually evolving and fluid epistemic spaces.

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Part II The Empirical Studies



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Maintaining doubt to keep problems open for exploration: An analysis of law students' collaborative work with case assignments



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ABSTRACT

This article examines how second-year law students act and interact to maintain legal doubt in solving case assignments in groups. Professional norms of inquiry within the legal domain include keeping an issue open for exploration and ensuring that all potentially relevant aspects of a case are considered before reaching a conclusion, as well as making the basis for such conclusions transparent. However, we do not know much about how students appropriate this core aspect of legal problem-solving. We analysed videotaped discussions in two student groups as they worked with cases in international law. The findings bring to the fore how (1) the students' interactions; (2) legal texts; and (3) the use of professional procedures and principles for investigation constituted an exploratory dynamic through which doubt was collectively produced and maintained in the group work. The analysis shows that in the process of getting deeper into aspects of the case at hand, problems were opened up and kept open by the students'/construction of a number of intermediate questions. The relevance of such questions was tested in the group work, but also guided by texts and procedures that are linked in systematic ways. The article argues for the value of group work to support students in learning to take part in core knowledge practices that characterize legal problem-solving.

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1. Introduction

This article examines how law students in groups act and interact in order to maintain doubt in solving legal cases. As newcomers to a professional domain, students need to learn the norms and procedures through which knowledge is explored and applied in this specific knowledge community. This involves appropriating the discourse and conventions for how established knowledge is used to illuminate specific problems and their potential solutions; how tools like texts and other materials can be used in framing and solving problems; and what counts as relevant ways of reasoning and acting in the professional domain. In short, student learning is about taking part in and appropriating the knowledge practices that characterize the profession (Anderson and Hounsell, 2007; Jensen, Nerland, and Enqvist-Jensen, 2015).

One aspect of knowledge practices concerns the processes through which questions are identified, opened up and thoroughly explored to arrive at a solid understanding or convincing solution. In such processes, it is crucial to avoid jumping to conclusions or establishing facts too early, as this may prevent deeper insights and justified claims. The strategies used to ensure proper

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investigations and to validate decisions vary across domains. Different knowledge communities have different techniques and criteria for *how* to reach justified conclusions (Donald, 2002; Knorr Cetina, 1999). Moreover, they may place different emphases and labels on related phenomena. In the STEM subjects, it is common to use the term 'inquiry' to denote in-depth investigation of knowledge and problems. In the humanities, it is more common to talk about critical thinking as denoting an investigative stance towards knowledge. The two may have several things in common, such as involving reflexivity in epistemic matters and rules of performance. At the same time, the labels used reflect characteristics of the different kinds of knowledge and insights produced in different domains.

In the legal domain, the term 'doubt' is used to express ways of keeping problems open until all conceivable aspects of the problem are thoroughly examined and the conclusion reached is well justified. Studies of legal practice from the courtrooms have identified doubt as a key aspect of legal problem solving and in ensuring sustainable development within this field of expertise. Berti, Good, and Tarabout (2015) claim that the role of doubt in this field is equivalent to that of curiosity in science or surprise in philosophy, in the sense that doubt generates novelty and makes it possible to see issues from new angles. Likewise, in Latour's (2010) study of practices in the French Council of State, doubt was identified as a value against which judges assess their work. His study illuminates how judges make many efforts to actively construct and maintain doubt in order to postpone conclusions and to ensure that all relevant arguments are critically explored. This happens, for instance, through repeated reviews of legal texts and through the use of contradictory drafts of decisions. These procedures bring a slowness to practice which 'allows the law to ensure that it has doubted properly' (Latour, 2010, p. 220). Even though legal knowledge does not reflect absolute certainty, a judgment has to be made in the end; once a case has been closed, there is no return. The main burden of ensuring that all relevant aspects are considered therefore lies ahead of arriving at a conclusion. Thus, legal doubt entails both keeping problems open for exploration and making the exploratory process transparent. Doubt is expressed in legal work as problems continue to unfold through rules for interpreting authoritative sources of law (e.g. Donald, 2002). Furthermore, transparency relates to justification by referring to authoritative sources effectuated in the construction of the legal questions which are raised and also by making alternative drafts of decisions public.

Whereas the task to maintain doubt is organized as a collective effort and distributed on several roles in the courtroom, *students* will need to learn how to enter into different roles and engage in actions and procedures in order to learn how to maintain doubt. A previous study on group work in an introductory course in a Norwegian law programme has shown how first-semester law students tended to jump to conclusions rather quickly in solving legal cases (Jensen et al., 2015). In this study, learning an exploratory approach through a thorough and stepwise examination of legal sources was identified as important for learning legal problem solving. From an educational perspective, an emerging question is how after the very first introduction period, students appropriate ways of maintaining doubt as they solve problems in educational settings. By perceiving doubt as a collective achievement in legal practice, where different roles, texts and procedures interplay (Latour, 2010), we will explore the characteristics of students' collaborative actions as they engage with complex legal cases. Our analytical focus will be on a) the characteristics of the students' interactions, which contribute to keeping problems open and ensuring that relevant issues are thoroughly explored; and b) what roles legal resources play in such processes. We analyse the students' interactions and their use of sources in the context of students' group work and their attempt to solve complex open case assignments in a 3rd semester seminar in public international law.

The article is organized as follows: first, we review relevant research on student learning in legal education with an emphasis on studies that focus on students' ways of resolving legal problems. Next, we frame our study conceptually by presenting a perspective on student learning as intrinsic to participation in knowledge practices, which are informed by discipline-specific tools and procedures *and* form the problem-solving process. We then present the empirical context and methodology, followed by an analysis of students' work.

2. Law students' learning and problem solving

Legal education has attracted researchers' interest both regarding law as a distinctive form of expertise and the highly concept-driven knowledge that characterises the domain.

One influential strand of research focuses on learning within legal education as a matter of appropriating the legal discourse by learning the particular ways of reasoning and constructing convincing legal arguments (e.g. Burns, 1997; Donald, 2002; Mertz, 2007). Previous studies within this strand have paid attention to challenges in the first year of law school and convey how students undergo a process of reorientation of their everyday understanding of human conflict. Such reorientation implies removing the contextual, narrative, and emotive features from human affairs and human conflict and is guided by a vocabulary of abstract, technical and nuanced terms and principles. In her ethnographic study of classroom interaction in eight law schools, Mertz showed how the *language of law* serves as a tool that enables first-year law students to 'stand back and weigh aspects of the problem at hand [...]' (Mertz, 2007, p. 10). The professional language and its concepts are thus important means in this transformative process.

Another strand of research has focused on legal reasoning (e.g. Donald, 2002; Stratman, 2002; Weinstock, 2016) and showed how such reasoning is guided by specific rules embedded in the institutional discourse. The legal discourse is very specialized and organized around formal concepts, which serve as tools. However, there is little research which addresses *interactional* aspects or questions of how students engage with *profession-specific tools* in educational settings in legal education. Some recent studies conducted within other professional programmes have shown how ways of appropriating cultural tools and participating in relevant ways come across as interactional achievements in which engaging with the knowledge content of the activity is at the core (e.g.

Damşa and Ludvigsen, 2016; Eriksson and Mäkitalo, 2013). There are also some quite recent studies from introductory courses in legal education that pay attention to how law students take part in knowledge practices and make use of tools in collaborative problem-solving.

One such study was conducted by Mäkitalo (2013). Concerned with the ways legal education provides possibilities for students to communicate and participate in a legal discourse, this study analysed interaction data from group work as beginner students were in the process of transforming a set of narrated events into a legal case. The analysis focused on how the students learn to categorize actions and events and on the enabling practices and resources involved as the students progressed in their engagement with the case over time. The analysis showed that the practice of justifying if a legal source was relevant or not was crucial for proceeding with the task. It also showed that the students' participation in practices such as categorization, and particularization and the use of re-versing questions enabled them to notice possible counterarguments as a starting point for detailed readings of the legal sources.

In a study from a problem based introductory course in a Norwegian law programme, three colloquium groups as well as teacher-led sessions were followed with a focus on the students' exploratory work as they collaborated on solving a complex case assignment (Jensen et al., 2015). The analysis revealed how the students, in framing and solving the case, enacted a variety of knowledge practices, such as integrating knowledge from various sources, elaborating on information and problems, specifying information in different sources and justifying the relevance of legal texts as part of their negotiation of stances. The study suggests that a richness of knowledge practices is important to secure a thorough investigation in the problem-solving process. This study also showed how epistemic resources, such as texts and methodological approaches, served to provide direction for the investigation process.

What emerges from these studies is, first and foremost, the important role that legal texts play in stimulating a variety of knowledge practices in the problem-solving process. Furthermore, the analyses of law students' collaborative work with case-assignments showed that questioning sources and temporary solutions and asking for justification of claims were important in the problem-solving process. Less is known about how students identify what questions should be raised and what is not yet resolved in order to move on with a task, or about how students handle the relationship between questioning and trusting the information at hand.

Even though previous studies have shown that language socialization plays a central part in developing a legal vision that enables a newcomer to the field to hear perspectives and ideas which they might previously have dismissed too rapidly, how students act in order to maintain doubt in educational settings where they work with complex cases is not in the foreground of these studies. In other words; how can the students be sure that their legal practice has 'doubted properly'? We will focus on how students ensure that relevant arguments are critically explored by zooming in on relations between tools, legal sources and interactions. Moreover, based on a view of doubt as a phenomenon that involves processes of testing, negotiations and breaking of opinions, we explore doubt as an aspect of collaborative problem-solving.

The analysis of student group work is guided by the following research questions:

- How is legal doubt produced and maintained in the students' interactions?
- What roles do the legal sources play in such processes?

By investigating these questions in the context of a second-year course within a 5-year master programme, the study also adds to existing research by providing insight into how students exercise core aspects of problem-solving as they are expected to be increasingly more independent in defining and solving legal problems. More insight into students' experiences and practices after the initial introduction period, but still at an early stage in the course of their education, is important since many challenges in university students' learning progression seem to arise during the second year (Yorke et al., 2014).

3. Doubt as generated through profession-specific knowledge practices: a performative view

In exploring these questions, we employ a sociocultural perspective on knowledge practices and collaborative problem-solving (Säljö, 2009; Wertsch, 2007). From this perspective, knowledge is understood as socially distributed and embedded in language, material tools, and procedures of various kinds. Rather than having stable characteristics, knowledge emerges in specific ways in situated problem-solving through the way the participants approach, negotiate and make sense of the problem and the available resources. This implies seeing the activity as co-produced by the participants in situ, in which legal texts, concepts and course materials are potential mediational means. At the same time, situated actions are guided and regulated by the historically developed conventions that define a given field of expertise. For law students, this means that their ways of engaging in problem-solving are guided by conventions related to the institutional practice of legal education and relate to the norms and conventions of the profession as such, mediated through the legal texts and tools that have their origin in the professional world.

Institutional norms and conventions are incorporated in knowledge practices that provide direction for how to go about solving problems in a profession. Knowledge practices refer to collective ways of producing, sharing and assessing knowledge, which take distinct forms in different expert communities and which must be learned in order to become a skilful participant of the community (Jensen et al., 2015; Kelly, 2011; Knorr Cetina, 1999). Moreover, these practices are intrinsically related to the types of texts, instruments and other tools that are shared in the community and which incorporate historically developed knowledge and routines for particular forms of work. Such profession-specific texts are crucial for learning as they provide access points to established knowledge in the profession. They also carry a transformative potential as they allow people who engage with

them to examine the world in new ways or to critically investigate the meaning potentials embedded in the tool itself (Wertsch, 2007).

As pointed out in the introduction, the role of doubt in legal practice is to ensure that all relevant aspects of a case are sufficiently explored and to avoid premature conclusions. We understand doubt in performative terms which implies to see actions as not only shaped by, but also as exerting effects on, the social world (e.g. Säljö, 2010; Fenwick, Edwards, and Sawchuk, 2011). Doubt is seen an effect of students' work; generated by students talk and interactions as they formulate questions to the given, request explanations of stated knowledge claims, or call the area of application for a given rule into question. Importantly, such talk and interactions are intertwined with knowledge practices and cultural tools that characterize the legal domain (Mertz, 2007). Studies in other domains have shown that forms of exploratory talk are involved in keeping problems open for exploration in collaborative educational settings (Havnes, Christiansen, Bjørk, and Hessebakke, 2016; Littleton and Mercer, 2013). Such talk is, however, likely to take distinct forms in different knowledge domains. In this paper we therefore take an analytical interest in the forms of talk and interactions in the students' work as well as the role that cultural tools play in producing and maintaining doubt in the students' collaborative work. In the following section we describe the empirical study and our analytical approach.

4. Methodology

To examine how students act and interact to maintain legal doubt, we performed a case study of student group work as they solved case assignments in 3rd semester. We paid special attention to their use of legal sources.

4.1. Empirical context and data

The students we followed take part in a 5-year integrated master programme of law at the University of Oslo. In the Norwegian context, law-graduates enter into various forms of legal work both in public administration and the private sector.

At the beginning of their second year, the students were introduced to public law, both at the national level (called *Statsrett* in Norwegian) and the international level. The particular course we followed was included in a larger course in public international law. In the textbooks, this particular field is described as 'dynamic', as the constantly growing number of treaties reflects the increase in different forms of relations between international actors (Ruud and Ulfstein, 2011). Furthermore, the field is not easily delimited, as it can be defined by its legal subjects (such as states and international organizations and other international actors) or by its legal sources. It is also described as a contested area as '(...) some critical voices question whether or not public international law deserves to be characterized as law' (ibid p. 20, our translation). This transition and the dynamic and somewhat unclear boundaries which characterize the field of public international law makes this field particularly suited for exploring the role of doubt in legal problem-solving.

The course in international law was a non-mandatory seminar, which took place approximately three weeks before the exam. During the course of the week the students were expected to work with four different case assignments. The cases were all presented as open-ended one-page narratives which comprised several actors as well as sets of disputed actions and events that occurred at specific times in a temporal structure. In the process of engaging with the tasks, the students had a variety of textual resources at their disposal, such as one compendium with a selection of 300 'basic global and regional treaties', a selection of court decisions for the whole second year of law school and their textbooks. The course followed a structure which included teacher-led sessions in which introductions of new cases and summaries of the process of solving the cases were conducted. In between the teacher-led meetings the students were expected to spend 2 h, at minimum, working through the cases.

Two groups, each comprising four students, agreed to videotape their group discussions as they worked through the cases in between the teacher-led sessions. An overview of the data is summarized in Table 1.

Table 1
Overview of the data.

	Student group discussions	Teacher-led seminars	Interviews	Other materials
Participants in the study	Two student (colloquium) groups	Two seminar groups of 15–30 students, each led by one professor	Two student groups, two teachers	
Type of data	Videotaped meetings, duration 1–3 h	Audio-tapes and field notes from participant observations of seminar meetings	Videotaped group interviews and audiotaped interviews with teachers (fully transcribed)	Course documents, case descriptions, legal sources
Amount of data	Eight meetings 18 h	12 seminars 20 h	Four interviews 5 h	
Status of data	Core	Supplementary	Supplementary	Supplementary

4.2. Analytical approach

The ways that doubt was produced and maintained in the students' group interaction were explored and analysed in two steps: first, through identification of recurrent knowledge practices in the two groups, and second, through micro-oriented analysis of what constitutes these practices, including how they are performed in the students' interactions and what function they serve (Derry et al., 2010).

After repeated viewings of the video-recorded meetings, close descriptions of core activities in the two groups were made. This initial sorting and reduction of the data corpus can be described as thematic in the sense that the aim was to capture central principles that characterize law students' collaborative problem-solving (Braun and Clarke, 2006). The themes describe the different facets of the performance of law as an institutional practice made visible in the data. This initial thematic analysis identifies broader patterns in the exploratory dynamics of the students' work over time.

To explore the students' work in more detail and how they navigate different legal sources, we zoomed in on the interactional processes as the students attempted to find directions for further investigations. In order to get a better understanding of how doubt was maintained, we used the following analytical concepts to specify the students' talk and their use of available sources: *elaboration*, *specification* and *justification*. These concepts allow for opening up how such talk and use of sources related to norms for doubt; i.e. to explore all the relevant issues in relation to the problems by elaborating and specifying problems, concepts and information which need to be explored, and to make the exploratory process transparent by justifying their exploration.

In order to present the results from the analysis of the actions and interactions which makes it possible to maintain doubt in the problem-solving process, we have chosen to include excerpts from one of the two student groups as they work with one of the four assignments. This group collaborated in a way that provided us with particularly rich data, as they deliberately organized their work so that they could test their ways of reasoning. They did not spend time on individual preparations before the group work, but collaborated on solving the cases from the beginning to the end, including exploring various legal sources together. The students also used the blackboard to structure their efforts as they explored the four case assignments throughout the week. Their collective orientation in their attempts to explore and solve the cases made it possible to get hold of the ways the students justified and negotiated how they should explore the problems in the cases and make sense of the available resources.

In the following sections, we will present the results from the thematic analyses (Section 5.1) before we focus on the more detailed analysis of one group process (in Section 5.2).

5. Analysis

5.1. Dynamics of exploration in the students' group work

The case assignments can be characterized as open and complex. The main elements in the narrative that we zoom in on here are summarized in the following:

The students were introduced to the archipelagic federal state of 'Ying' in the federation of 'Banga', where old tensions between the minority population of Ying and the majority population of Banga came to the surface as the newly elected president (Zhang Dhele) started to adopt a series of laws which suppressed the Ying culture and allowed for the people of Banga to take over the archipelago's rich farmland. The State Parliament of Ying responded to these actions by claiming that the union should be dissolved and by deciding to try to bring a case against Banga before the International Court of Justice. Zhang Dhele also implemented several new 'initiatives' which led to the systematic killings of 70.000 people from the Ying population. In relation to this second part of the conflict, the students were introduced to another state: 'Imperia'. The students were informed that Imperia decided to provide Ying with weapons, military equipment and military advice after the Security Council, by a US veto, had blocked the possibility for the United Nations to take action against Banga. In the case assignment the students were presented with some of the main arguments from Ying, Banga and Imperia in their attempts to justify their actions.

Our first thematic reading of the data revealed a set of practices which was recurrent in both groups and contributed to maintaining an exploratory dynamic in the students' group work. Overall problems were maintained as they were reopened through the construction of new questions which were explored further. These practices were present at different phases of the process, and the students oscillated between the different practices as they decomposed and went deeper into the legal problems at hand. The following list shows the knowledge practices identified:

- Sorting the story into parties, conflicts and claims: who are the parties? Who is in conflict? Who is claiming what from whom and when?
- Transforming claims or actions into (a) legal question(s): a question which is related to conditions for a certain rule.
- Identifying relevant legal sources to be explored.
- Collaboratively exploring and justifying concepts and principles in (and in between) legal sources.
- Relating concepts and principles in the sources to the details in the case and the specific question.
- Drawing (preliminary) conclusions to the previously set question.

In order to establish a shared starting point for identifying what needed to be explored, the students made attempts to get an overview of the different events in the cases. They identified the different judicial conflicts and claims by first organizing the stories into parties, conflicts and claims. Once different claims were identified, the students then moved on to transform these into legal questions.

An important principle for exploring knowledge in the legal domain is to construct questions that count as a legal question, which is reflected in one teacher's (teacher 1) statement in the interview: 'As a legal professional, once you've managed to set a precise legal question, then you're more than halfway there. A 'precise' legal question is defined by being 'close to the condition side of a rule' (teacher 1), e.g. a question that asks under what conditions a certain rule applies. However, such rule-related questions are not easily answered, as they require further investigation related to the specific problem at hand. To paraphrase the teacher, when the question is set, you are only halfway there. The analysis showed that the students moved in and between the process of defining the questions and exploring the legal sources. In other words, the activity of transforming particular claims into legal questions was interwoven with the students' search for a relevant source to explore and their exploration and justification of concepts and principles in legal sources. The process of oscillating between these practices contributed to further exploration of the case. However, in order to explore *how* doubt was maintained in the students' work, a more fine-grained analysis was needed.

In the next section, we present an in-depth analysis of one group process in one of the two groups. The excerpts were chosen to display *different ways* that doubt was maintained and how the students' questioning mode worked together with legal sources in moving between temporary achievements and new openings in the problem-solving. The detailed analysis of the selected excerpts was translated from Norwegian and transcribed (cf. appendix on notes on transcriptions). Some of the excerpts are condensed, which is illustrated by (...) in the transcript.

5.2. The micro-dynamics of producing and maintaining doubt

To zoom in on the micro-dynamics in the students' collaborative problem-solving, we followed one process in one group in more detail. This group consisted of four students who are all represented by pseudonyms. The students who participated in this group had met on a regular basis since the beginning of the very first semester for informal discussions of specific problems in the curriculum and to solve or compare suggestions for resolving assignments in different courses. At each meeting between the teacher-led seminars they found a room at the university which had a blackboard; as a starting point, the students took a few minutes to read through the cases together. We identified some differences in the students' contributions and they took on various roles and responsibilities in the group that served different functions in the group work, such as engaging in verbal discussions, writing on the blackboard, requesting clarifications of how to move forward in the problem-solving process and reading from different sources providing the group with details relevant for solving the case assignments (see Section 5.1).

5.2.1. Identifying a question that allows for multiple explorations

The first challenge for the students was to identify a question that was precise enough to be explored, yet open enough to allow for investigation of several potentially relevant aspects of the case. To investigate how this was done, we enter into the group meeting as the students begin to explore the conflict between Imperia and Banga. The following episode is initiated as one of the students (Thomas) asks the others the following question: 'But what should be the question here?'

Excerpt 1		
Turns	Verbal communication	Descriptions of actions
1. Jacob	How about if we ask, 'Do Imperia's actions represent a major interference in the national sovereignty of Banga?'	Looks at the case assignment while speaking
2. Thomas	Yes, but <u>that</u> comes later	
3. Jacob	Not now?	
4. Thomas	I think that first we may need to find a more general question about <u>that</u>	
5. Jacob	Yes	
6. Thomas	Such as, 'Did Imperia have the right, according to law, to use force' ... No, that will not be it...because then one will need to first decide if they had actually used force. Hehh:::	
7. William	But they didn't have [the right to]	
8. Thomas	[But was it] a violation of public international law, yes, to support...	
9. William	Is Imperia's support of...of (10 s) uhmm	Holding the case description in front...looks at it...
10. Jacob	Ying	
11. William	The Yings, a violation of public international law?	
12. Jacob	Yes, that is a good starting point	

(continued on next page)

(continued)

Excerpt 1		
Turns	Verbal communication	Descriptions of actions
13. Thomas	Well, that is what I can think of as the closest thing to a main question here. Because as part of this one can discuss ... if you supply rebel groups within a country, this counts as a...and then one must take into account whether or not it (Ying) is to be recognized as a state? ...	
14. William	Uhm, yes	William writes the following on the board: is Imperia's support of the Yings a violation of public international law?

We see that Jacob responds by testing out a question, saying, 'How about if we ask'. The relevance of the question seems to be acknowledged, but not the order of it. Thomas argues that the question 'comes later', and by saying so, he requests more exploratory work from his peers. The problem is not that the question is not relevant, but that it is too precise too soon—they might then overlook important elements that require further questioning. Hence they need doubt when questions become too precise. Thomas continues, arguing, 'We may need to find a more general question' (line 4). Together with his peers, he then attempts to formulate such a general and open question in a cumulative fashion. Thomas' formulation seems to build and rely on the objections from the others (lines 6–11).

The collective functions as a gatekeeper, and whose role is to correct and prevent the group from formulating too precise a question too soon, because if they do so, their investigative process will be put on hold. Doubt is then maintained through a collectively acknowledged way of asking your peers to stop, to wait, and to think. Thomas says, 'but that comes later'—i.e. 'hold your horses', the question is relevant, but stated too soon. Jacob acknowledges this in line 5. The conclusion that William writes on the blackboard ('Is Imperia's support of the Yings a violation of public international law?') is acknowledged as such because it allows further exploration. This entrance question provided an epistemic space for producing and maintaining doubt so that they can explore the case further. However, at this point the students are not able to clearly identify what exactly they need to explore further.

5.2.2. Decomposing the problem through legal sources

The next excerpts demonstrate the important role the legal sources play in the process of specifying what the students will need to explore. As soon as the overall framing of the problem was acknowledged, the students started to search for relevant sources. Two legal sources were suggested: a court decision (the 'Nicaragua decision') and a specific international treaty (the Charter of the United Nations). They reminded each other that they should first consider legal treaties, as William suggests: 'so now we move on by asking what is considered as illegal support according to the UN Charter'.

What emerged from the analysis is that the students do not necessarily wait to explore legal sources until after they have defined a precise legal question, but rather that they use legal sources to find a direction for explorations that are not yet specific. In the following excerpts we shall see that the students' exploration *in and through* legal sources resulted in *new questions* that needed to be explored, which then served to avoid jumping to conclusions. We enter the group a couple of minutes later as the students have moved on to explore the UN Charter. At this point, Peter and Jacob had identified a specific article in the text (Article 2) and started exploring the text by systematically considering whether or not different subsections are relevant for their case.

Excerpt 2a		
Turns	Verbal communication	Descriptions of actions
1. Jacob	Does 2.3 say anything about illegal support? (3 s)...no it cannot be 2.3. (...). It must be 2.4, I think... Yes, here it says that, 'All members shall refrain in their international relations from the "threat or use of force"' (5 s) But here it says use of force...is <u>that</u> considered as support?	Peter and Jacob read aloud from the following sections: 2.5, 2.7, 2.3. Jacob shifts to subsection 2.4.
2. Thomas	Yes, that is what we need to ask, if the kind of support provided by Imperia can be considered as use of force	
3. William	That is exactly what the case in Nicaragua is <u>all</u> about.	Moving towards the blackboard.

Here the students begin to specify the question by considering the relevance of the sources for their case at hand. Jacob asks about the relevance of a subsection previously suggested by Peter (line 1): 'Does 2.3 say anything about illegal support?' However, after reading through the section silently, he soon concludes that it is not relevant for their case. Note that in their search for a specific section in the legal source, Peter and Jacob read aloud from different subsections in article 2. After considering several subsections, Jacob finally recognizes in one of them (2.4) a concept previously mentioned in the group, and he reads it aloud. Once more he asks his peers about the relevance of this particular section: 'use of force...is that considered as support?'

The students needed to secure a legal basis for their exploration. Both Thomas' and William's responses—'yes, that is what we need to ask' (line 2) and 'that is exactly what the case in Nicaragua is all about' (line 3)—signal that they begin to establish what

they need to explore; i.e. they move towards a specific question. The function of the collective seems then to shift from maintaining doubt (as shown in excerpt 1) to ensure that the suggested question is in line with acknowledged ways of asking legal questions. Note that the group here returns to a question that Thomas tried to form in excerpt 1 (line 6). The difference is that the students at this point have identified an acknowledged a legal source to justify the question for exploration.

However, this process of specifying the problem does not stop here, because soon after introducing the second legal source, i.e. the Nicaragua decision (line 3), William begins to question his previous recollection of what is at stake in the Nicaragua-case.

He questions the scope of the overall problem by suggesting that there might be more issues at stake in the Nicaragua decision that they will need to take into consideration in exploring Imperia's actions. Hence, they activate doubt to avoid missing out on issues that require exploration. William's question creates a tension in the group concerning what is considered illegal support according to the court decision.

Excerpt 2b		
Turns	Verbal communication	Descriptions of actions
1. Thomas	But isn't it what the Nicaragua judgment says...that if one arrives at the conclusion that something falls below the threshold for use of force, then it is <u>not</u> a violation? (4 s). At least that is what I have thought	Thomas stares at his selection of court cases.
2. William	(...) It says here something about the fact that 'trade' in the case of Nicaragua was not an instance of use of force. But it doesn't consequently conclude that such trade was not considered as a violation of public international law...	William starts to read from the Nicaragua decision, silently at first, and then aloud, while pointing at specific sections in the text.
3. Thomas	(...) Ok, but then we have three different concepts in Nicaragua. There is 'intervention', 'use of force', and 'armed attack'.	William moves back towards the blackboard.
4. William	But what should we ask now?	
5. Thomas	But then we start with the question: does Imperia's support of the Yings represent a violation of the rule that prohibits use of force as it is stated in article 2.4. Yes, that is what we do first (20 s). And then we need to establish the threshold for use of force (2 s). What does it mean to use force?	William writes a new question on the blackboard: Has Imperia violated the prohibition of force in 2.4?

Thomas responds to Williams's suggestion by providing a different interpretation of what is considered a violation according to this court decision (line 1). At the same time, other alternatives are also kept open as he stops and says, 'at least that is what I have thought'. The students' ways of questioning the relevance of suggested legal sources not only helps them select what is most relevant, it also makes visible the need for further exploration of knowledge in the sources (lines 2–3). This identified gap in the students' recollection of the principle and Thomas' uncertainty of what is considered illegal support pushes them into a new round of exploration of the legal source. William starts to read the text and makes an attempt (line 2) to justify his previous claim that they need to consider more issues in their case.

The above interaction displays the practice of specifying a problem *through* the legal source. The function of specifying a problem is however not to conclude, but to explore more issues. At this point in the students' group work, the Nicaragua-case serves the function of reopening the overall problem and widening the scope of Imperia's actions as a legal problem. This comes through as the students, from their joint reading of the Nicaragua- decision, identify not only one, but three different concepts at stake in the decision (line 3). Note that at this point all four students engage in reading the text. Doubt is maintained through a collectively acknowledged way of challenging each other's ways of understanding the main issues in sources and asking your peers to read the legal sources more thoroughly in order to elaborate on information in the sources that might be considered in identifying what questions to ask. This search for details for further exploration might be seen as an example of appropriated legal knowledge practices. Specifying the question as well as opening new problems is interactionally achieved by the different positions the students take in the interaction.

Excerpts 2a and 2b illustrate how the textual sources serve different functions: while the UN-Charter contributed to establishing what to explore as an acknowledged question in the profession (2a), the Nicaragua-decision contributed to reopening the overall problem and widening the scope of Imperia's actions as a legal problem. Doubt is maintained here by the way the students hold each other accountable for their temporary conclusions by requiring justification and securing a legal basis for their arguments.

As soon as the students have identified an acknowledged legal basis for the question of intervention (previously suggested by William), they returned to explore the Nicaragua- decision more closely. This time they identify relevant similarities between the two cases and the relation between the actors in the case. After investigating several alternatives, the students moved towards an argument that Imperia's actions should be seen as illegal support. However, this was only seen as a temporary closure in the process of exploring Imperia's actions as a problem in public international law. In the following section we will show how the students maintained doubt in the further exploration of Imperia's actions.

5.2.3. Maintaining doubt by exploring the scope of the problem

In the teacher-led sessions the students were reminded repeatedly of the importance of engaging in alternative discussions in order to broaden the scope for investigating legal problems (field notes). The teachers underlined that the students, in order to learn to see and explore relations between different questions in complex cases, needed to engage in more subsidiary discussions than legal professionals. One of the teachers pointed this out in the interview: ‘...while in court legal professionals can and tend to deliberately jump over the fence at its lowest point, the students need to go all the way and discover all possible routes’. This relates to the importance of securing that all relevant aspects are sufficiently explored, and to make the basis for decisions transparent. However the students were not given clear instructions as to how to identify the subsidiary discussions that should be performed.

The next excerpts show how doubt was maintained in the group work by the students' attempts to define the boundaries for exploration, and that engaging in a series of questioning enabled the students to handle the scope of the problem.

As part of the exploratory process the students attempt to identify the borders of what to explore by testing the relevance of suggested sub-questions. We enter the group work as William asks his peers if they are ready to reach a conclusion on the overall question that they agreed on previously (excerpt 1). He looks at the blackboard, points to the overall question, and asks, “But now::: should we just state that the answer is ‘yes’ here?”

Excerpt 3a		
Turns	Verbal communication	Descriptions of actions
1. Thomas	Yes, their actions represent a violation of public international law (6 s). And now, what is the next question? Do we ask if this violation can be justified based on self-defence? (2 s) And then afterwards one can ask if it can be justified based on the principle of responsibility to protect.	William writes ‘yes’ next to the overall question: Is Imperia’s support of the Yings a violation of public international law? Thomas looks at the other students and at the blackboard.
2. Jacob	(...) But is it a violation of public international law if it can be justified?	William draws a new column.
3. Thomas	No, but as a starting point it is in violation if there is no valid exception to the rule that can be used. I mean, that is just good old-fashioned legal work (5 s). We need to consider that now. But what is the legal basis for self-defence, Peter? (2 s) Jacob?	Peter starts searching in the collection of treaties.

In this excerpt we see how the suggested conclusion is viewed as only temporary in the students' exploration of the legal conflict, because as soon as the group has agreed to conclude, Thomas starts to ask his peers if they should explore *further* by looking at *different ways* of justifying Imperia's actions by presenting new and alternative questions (line 1). This way of asking for relevant exploratory routes in terms of alternative questions is made visible through chains of questionings as he suggests issues to explore ‘now’ and ‘then afterwards’ (line 1).

We also see that the students' ways of testing and asking each other for how to go about, i.e. what to ask and when, contributes to clarify methodological issues. The interaction between Thomas and Jacob (in line 2–3) illustrates how they need to make sense of the ways that problems are central but also transitory in the process of problem-solving, and that methodological rules contribute to keeping doubt maintained in the group work.

In the following excerpt we see that as soon as the students agreed to approach the question of self-defence, they engage in a new round of questioning of the relevance for their case.

Excerpt 3b		
Turns	Verbal communication	Descriptions of actions
1. Thomas	Self-defence, Article 51::: What is it that we need to consider? (10 s) But I think that here we also need to take into consideration that Ying is <u>not</u> regarded as a state.	The students start to read from Article 51 and the Nicaragua decision.
2. Peter	Yes, I was about to say the same.	
3. William	Because no one has the right of collective self-defence if they are not a state...because then what has happened here in our case should be considered as internal affairs within Banga. So then maybe it's not...	Peter starts searching in the collection of international treaties.

Thomas asks his peers ‘what is it that we need to consider?’, and by doing so he signals the need to elaborate on what they will need to explore in their case. Note that while the other students start to read in the different legal sources, Thomas takes time to stop and think before he suggests that they first will need to take into consideration a previous conclusion in the case (line 1). This time the students collectively make sure they do not miss out on important preconditions for what to explore further. In

addition to avoiding missing out on issues that need to be explored, doubt is also needed to avoid asking irrelevant questions. We see here that William makes an attempt to justify why collective self-defence probably should be excluded in their case.

The students moved on with their work and identified the limits of the problem. Through testing other possible ways of claiming self-defence, the students were pushed once more into exploring legal sources (Article 51). After exploring concepts and conditions for self-defence, the students concluded that the conflict in their case could not be seen as an instance of self-defence. As soon as the students started to approach the second alternative question (responsibility to protect), they recognized that there were no written legal sources to build on, and they soon engaged in a discussion on how to justify the exclusion of this question. It should be noted that neither the students nor the teachers rejected this principle as a point for discussion as such, but instead concluded that claiming ‘a responsibility to protect’ the Ying population would be a difficult argument to construct as it deviates from what is most commonly accepted in the profession. Finally, after considering all the different questions and legal sources, the students agreed to argue that Imperia’s actions couldn’t be justified according to public international law.

6. Findings and discussion

Acknowledging that the ongoing production and upholding of doubt is seen as a key feature of legal practice (Latour, 2010), we were interested in how students, in the context of group assignments, go about ensuring that their legal practice ‘has doubted properly’. Our main question was as follows: *How is legal doubt produced and maintained in the students’ interactions?*

The analysis showed how doubt was a collaborative achievement in the students’ group work, produced and reproduced in the way students interacted and took responsibility for asking questions, justifying claims and trying out arguments on each other. Both groups who participated in the study were highly question-driven in their work, in the sense that their process evolved through the construction of a number of questions which served both to *open up* and to *keep problems open* in their investigations of the cases at hand. The first thematic analysis revealed how the group processes involved a set of recurrent knowledge practices, in which the students oscillated between exploring claims in the case story and information in various legal sources. Furthermore, this explorative dynamic was driven forward through the search for questions that count as legal questions, i.e. they should be close to the ‘condition side’ of a rule and open for the exploration of significant judicial aspects. However, as shown in the analyses, such questions are not straightforward to answer. Rather, they give rise to a series of new questions when the different aspects of the condition side of the rule are further examined.

The in-depth analysis of the exploratory process in one group gave deeper insight into the characteristics of the interactional process which served to generate and maintain doubt. The first search for an overall legal question served to open up a problem space for the further process, from which multiple aspects of the case could be examined (excerpt 1). The overall question was broken down into several sub-questions, and the ways these sub-questions were constructed were not random. Rather, the students followed a structured approach regarding what questions were appropriate in what stage of the process. In some sense, the ways in which questions were raised and examined took the form of what has been described as ‘exploratory talk’ (Littleton and Mercer, 2013), which is characterized by being tentative and open and by asking for justifications in the probing of arguments. However, in contrast to what often appears in children’s and younger students’ dialogues, the interaction was distinctive also in its disciplinary content and in the use of profession-specific terminology.

The rules of inquiry in the legal domain place emphasis on ensuring that questions and arguments have a legal basis (e.g. Donald, 2002), and the students thus requested from each other that such a basis was both investigated properly and made transparent in their work. For instance, the analysis of excerpts 2a and 2b showed that the students recurrently asked each other for reasons and justifications for how to frame legal questions; they challenged each other’s interpretations of concepts and principles in legal sources and they stopped and signalled the need to elaborate on information provided in the legal texts. Finally, the analysis of excerpt 3 showed how doubt was maintained through the students’ ways of questioning the scope of the overall problem by actively asking their peers for other possible judicial issues to explore and by formulating a series of legal questions for their peers to respond to. Hence, the talk in this study was distinct in its content and professional discourse, and reflected key knowledge practices in the legal profession (Donald, 2002; Jensen et al., 2015). While the process did involve categorization of legal conflicts in relation to established law, as highlighted in Mäkitalo’s (2013) study, it also involved the constant generation of new questions to explore in order to avoid closing the case too early.

The distribution of roles and responsibilities among the students in the group was significant for the interactional process. Latour’s (2010) study about judges’ work in the French Council of State showed how responsibilities for maintaining doubt in courtroom practices are distributed among different actors. Contrary to the preconfigured roles in professionals’ work, the students in our case needed to take different positions in order to ensure that different voices and perspectives were included in defining what to explore and what had yet to be resolved. The analysis of excerpts 2a and 2b showed how the students took turns in accounting for the need to maintain doubt. Hence, the group as a collective took responsibility for bringing what Latour (2010) describes as a ‘slowness to practice’ to ensure ‘proper doubt’, and for continuously making the legal support for their arguments transparent. The students too employed procedures such as repeated readings of texts and a systematic trying out of preliminary arguments and decisions to ensure that important aspects of the case were investigated. Moreover, procedures for reading and examining different legal texts were important in the construction of appropriate questions, and, as shown in Section 5.2.3, principles for how to enter alternative discussions contributed to maintaining doubt. The enactment of these procedures was collectively achieved through the ways the students took different positions in the ongoing dialogue. The group process as such functioned as a test bed for posing questions and trying out arguments, which in turn served to generate and maintain doubt.

Hence, to understand how the students remained in an explorative mode and opened up different avenues for exploration, the mediating role of profession-specific concepts, texts and procedures is crucial. One main finding related to our second research question is that *legal texts and concepts served as important mediating tools which allowed for the exploration of problems to unfold in a structured manner*. For instance, excerpts 2a and 2b showed how the students' examination of core concepts in the legal texts led them to identify new questions in need of exploration. The question-driven forms of interaction are thus tightly interwoven with the use of professional language as a cultural tool.

Our findings here are in line with those in Mertz's (2007), study which underlined how the 'language of law school' enabled students to distance themselves from irrelevant details or emotive features in human conflicts by letting other possible solutions come into view. Our analysis supports Mertz's findings, but adds to these in two ways: First, while Mertz viewed the language of law school as a means for developing the specific habit of 'thinking like a lawyer', our findings shed light on how not only the language, but also profession-specific norms and procedures serve such a distancing purpose in students' problem-solving. These 'rules of inquiry' were important for the ways in which doubt could be generated and the legal problem could continue to unfold during the group process.

Second, our findings provide insights into the way procedures for legal practice guide students' work. In Mertz's (2007) study of classroom interactions, she found that procedural aspects of explorative work in law tended to be implicit in teacher–student interaction and were thus less accessible to the students. Our study from a different educational setting reveals how the students worked through procedures and texts, but also created a space for testing which questions to ask and for elaborating on the norms for investigation. It appeared that their ways of asking basic questions in relation to principles and procedures in the field of law provided opportunities for all the students to verbalize and share their understanding and to become aware of aspects they had not thought of previously. Here we see parallels to previous literature on peer-mediated learning which highlights the value of colloquium work and peer discussions in student learning (e.g. Havnes, 2008). In addition to facilitating the externalization and justification of arguments, such activities provide important spaces for students to manage their own learning without direct interference from teachers.

By following the interactional process of one student group, it became clear that legal texts, concepts and procedures not only were important to mediate emerging understanding of the case, but also provided pathways for exploration through the way the texts and concepts built on each other. The legal domain, in which treaties and court decisions serve as authoritative sources of knowledge, is indeed textually mediated. Such treaties and court decisions are also connected in specific ways; they are developed over time, layer upon layer, and each text includes explicit references to previous texts in the sociogenesis of law. While court decisions need to make the legal basis for the decision transparent and thus refer to treaties and sections, treaties also develop based on court decisions. Concepts such as 'illegal support' and 'prohibition of support' in the case examined above are addressed in, and thus can be traced across, the type of texts. In this way the legal texts, concepts, questions and procedures made up a *knowledge infrastructure* (Edwards, 2015) for students' work which allowed them to build questions and explore legal issues in a structured way, which also served to generate and maintain doubt. Throughout the process of testing questions and justifying the exploratory process, this knowledge infrastructure allowed for the problems to unfold in the students' work, but also to a certain extent allowed for the students to identify and discuss possible routes for how a problem can unfold.

7. Implications and suggestions

The two-step analytical strategy employed in this study has provided new insights into how students' joint efforts to maintain doubt involve the mobilization of epistemic, social and material relations in the process of engaging with legal problems. The findings bring to the fore how (1) the students' interactions; (2) the textual resources; and (3) the use of professional procedures and principles for investigation constituted an exploratory dynamic through which doubt was collectively produced and maintained. We suggest that maintaining doubt is an effect of sets of actions and interactions which are mediated by texts and procedures of legal problem-solving. The students' exploratory work comes across as question-driven and pre-structured. Yet, the tools and knowledge infrastructure along which the students move, contribute to the continuous unfolding of the problems. In this context, doubt is repeatedly 'performed into existence' (Fenwick et al., 2011, p. 4) in the web of relations comprising students' actions and interactions, the legal sources, procedures, questions and claims until the point is reached when the actors find that their legal practice 'has doubted properly' and the case is closed.

As knowledge is increasingly contested and in need of continuous justification across professions and disciplines, the focus on doubt addresses an aspect of knowledge practices which is significant for research on learning in higher education. At the same time, ways of ensuring a thorough exploration of problems are likely to take different forms in different domains, which need to be explored in their specificity. Therefore, we suggest more studies in higher education which investigate interaction in student groups in order to understand their collaborative knowledge work and learning as well as the interplay between talk, texts and other tools.

There is also a need to investigate these issues across a larger and more varied student body. The data presented in this article was selected from a well-established colloquium group characterized by a high degree of mutual trust between the students. However, other studies of student group processes have identified differences between groups in their strategies and achievements and have also pointed to the socially challenging aspects of group work (e.g. Damşa and Ludvigsen, 2016). In order to develop a better understanding of exploratory group work as a site for students' participation in knowledge practices in higher education, we suggest that future research should further examine the variation between groups and how such variation arises.

Finally, some implications for educational practices in higher and professional education can be drawn from this study. Our analysis illustrates the importance of providing law students with opportunities to practice the process of making their exploration transparent. While Mertz's study of student-teacher interactions in classroom settings showed that instead of making ways of exploring legal problems transparent for the students, profession-specific procedures remained implicit in the classroom interactions, our analysis from colloquium group work sheds light on the learning potential of group work and collaborative processes in learning this core aspect of legal problem-solving. In this group the students both worked through procedures and texts, but also made attempts to make their process transparent. However, such learning potential does not preclude the need for teacher support. On the contrary, guidance of procedural aspects of how to 'do' legal work needs modelling. We would therefore imagine that it would be useful for teachers in law school to activate students in group discussions also in classroom settings in order to facilitate joint exploration, make the investigative procedures of the profession more transparent and make students' current understanding approachable for teachers' guidance.

Appendix A. Notes on transcription

(5 s)	Indicating a timed pause
here	Indicating emphasis
(...)	Indicating that a part of the interaction is not included
:::	Indicating elongated speech, a stretched sound
[]	Indicating overlapping talk

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Vår dato: 14.02.2014

Vår ref: 37535 / 3 / AMS

Deres dato:

Deres ref:

TILBAKEMELDING PÅ MELDING OM BEHANDLING AV PERSONOPPLYSNINGER

Vi viser til melding om behandling av personopplysninger, mottatt 07.02.2014. Meldingen gjelder prosjektet:

37535 *Legal methodology as mechanism of enrolment to the knowledge culture of law - A study of students knowledge practices in higher education*
Behandlingsansvarlig Universitetet i Oslo, ved institusjonens øverste leder
Daglig ansvarlig Cecilie Enqvist-Jensen

Personvernombudet har vurdert prosjektet og finner at behandlingen av personopplysninger er meldepliktig i henhold til personopplysningsloven § 31. Behandlingen tilfredsstiller kravene i personopplysningsloven.

Personvernombudets vurdering forutsetter at prosjektet gjennomføres i tråd med opplysningene gitt i meldeskjemaet, korrespondanse med ombudet, ombudets kommentarer samt personopplysningsloven og helseregisterloven med forskrifter. Behandlingen av personopplysninger kan settes i gang.

Det gjøres oppmerksom på at det skal gis ny melding dersom behandlingen endres i forhold til de opplysninger som ligger til grunn for personvernombudets vurdering. Endringsmeldinger gis via et eget skjema, <http://www.nsd.uib.no/personvern/meldeplikt/skjema.html>. Det skal også gis melding etter tre år dersom prosjektet fortsatt pågår. Meldinger skal skje skriftlig til ombudet.

Personvernombudet har lagt ut opplysninger om prosjektet i en offentlig database, <http://pvo.nsd.no/prosjekt>.

Personvernombudet vil ved prosjektets avslutning, 01.01.2019, rette en henvendelse angående status for behandlingen av personopplysninger.

Vennlig hilsen

Katrine Utaaker Segadal

Anne-Mette Somby

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Vedlegg: Prosjektvurdering

Dokumentet er elektronisk produsert og godkjent ved NSDs rutiner for elektronisk godkjenning.

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FORMÅL

Formålet med prosjektet er å utvikle innsikt i hvordan jusstudenter blir en del av, og lærer å mestre sin fagkultur gjennom deltakelse i sentrale kunnskapspraksiser.

INFORMASJON OG SAMTYKKE

Ifølge prosjektmeldingen skal det innhentes skriftlig samtykke basert på muntlig og skriftlig informasjon om prosjektet og behandling av personopplysninger. Personvernombudet finner informasjonsskrivet tilfredsstillende utformet i henhold til personopplysningslovens vilkår.

PROSJEKTSLUTT

Prosjektet skal avsluttes 01.01.2019 og innsamlede opplysninger skal da anonymiseres, og lyd- og video-opptak slettes. Anonymisering innebærer at direkte personidentifiserende opplysninger som navn/koblingsnøkkel slettes, og at indirekte personidentifiserende opplysninger (sammenstilling av bakgrunnsopplysninger som f.eks. yrke, alder, kjønn) fjernes eller grovkategoriseres slik at ingen enkeltpersoner kan gjenkjennes i materialet.

ANDRE DATA

Prosjektet skal benytte data innhentet i et tidligere innmeldt NFR-prosjekt (prosjektnr 32373/The enrolment of students in professional knowledge cultures), hvor stipendiaten har deltatt som prosjektmedarbeider. Personvernombudet finner at formålet med prosjekt 32373 er forenelig med dette prosjektet, og at samtykket som er gitt tidligere ikke må fornyes. Dette delarbeidet vil fullføres innen januar 2016 da dataene fra prosjekt 32373 skal anonymiseres.

Appendix 2 Author declaration for co-authorship, article 2

Declaration

Describing the independent research contribution of the candidate

Article no. 2. Title: Enqvist-Jensen, C., Nerland, M. and Rasmussen, I. (2017). Maintaining doubt to keep problems open for exploration: an analysis of law students' collaborative work with case-assignments. *Learning Culture and Social Interaction*, 13, 38-49.

The independent contribution of the candidate:

I am the first author of this article. My independent contribution consists of having major responsibility in the first draft and in revision of the article. In more detail, this implies:

- I was responsible for collecting the empirical material and preparing data for analysis
- I had the main responsibility for conducting the analysis of the empirical data
- I had the main responsibility for developing and revising the article
- I was solely responsible for the review-section of law students' learning and problem solving (part 2)
- I submitted and resubmitted the article, and was the point of contact with representatives of Learning, Culture and Social interaction

My first co-author, and the second author of the article, has contributed in the following manner:

- She contributed to the choice of theory and wrote a draft of the findings-and discussion (part 6)
- She contributed to rewrite parts of the text during the process of developing and revising the article
- She has been a discussion partner and commented on drafts throughout the writing process

My second co-author, and the third author of the article, has contributed in the following manner:

- She has been a discussion partner and commented on choice of analytical strategies
- She also contributed to rewrite the text, especially the methodology and analysis sections during the process of developing and revising the article
- She has commented on the final draft

[signature removed]

[signature removed]

Signature of candidate

Signature of co-authors



Institutt for pedagogikk

Deltakelse i forskningsprosjekt: Informert samtykke

Takk for at du viser interesse for mitt doktorgradsprosjekt om jusstudenters læring.

I mitt doktorgradsprosjekt vil jeg fokusere på læring blant jusstudenter, med særlig interesse for hvordan jusstudenter arbeider med juridisk metode. Prosjektet gjennomføres ved Institutt for Pedagogikk, Universitetet i Oslo. Prosjektet er relatert til et større forskningsprosjekt finansiert av Norges forskningsråd, som blant annet undersøker studenters læring i høyere utdanning i ulike profesjonsrettede fag.

Ett av formålene med prosjektet er å øke vår forståelse av hvordan studenter blir innviet i sin profesjon, og lære seg fagets tenkemåter og metoder. I den sammenheng ønsker jeg å observere PBL-kurset i internasjonal rett våren 2014. Jeg vil følge et utvalg kollokviegrupper i arbeidet med oppgavene gjennom å ta video-opptak av møtene dere har. I praksis vil dette skje ved at vi setter opp kamera i rommet der dere jobber eller ved at dere tar opptak av dere selv. Formålet er å få mer presis informasjon om læringsaktivitetene i gruppene, kildene som benyttes i arbeidet, hvilke utfordringer dere møter underveis og hvordan diskusjoner og samarbeid i gruppen understøtter læringen. Informasjonen vil kun behandles av oss og vil ikke påvirke vurderingen i kurset. Det vil videre være aktuelt å gjennomføre intervjuer på et senere tidspunkt.

Prosjektet gjennomføres med støtte fra studieledelsen. Det er meldt til Personvernombudet for forskning ved Norsk Samfunnsvitenskapelige Datatjeneste, og gjennomføres i samsvar med Personopplysningsloven. Alle personopplysninger vil bli behandlet konfidensielt og anonymisert i publikasjoner fra prosjektet, slik at de ikke kan tilbakeføres til enkeltpersoner. Ved prosjektslutt 01.01.2019 vil samtlige data bli anonymisert og opptak slettet. Deltakelse i prosjektet er selvsagt frivillig. Du har anledning til å trekke deg fra prosjektet underveis uten å oppgi grunn. Vi håper imidlertid at mange vil være med, da medvirkning fra studenter er viktig for å gjennomføre prosjektet.

Du må gjerne kontakte meg eller min veileder, professor Monika Nerland, dersom du har spørsmål.

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Jeg har mottatt informasjon om studien, og er villig til å delta i prosjektet.

Sted/Dato: _____ Navn: _____

En studie av jusstudenters arbeid med metode: Informasjon til faglærere

Takk for at du viser interesse for mitt doktorgradsprosjekt om jusstudenters læring.

Prosjektet er relatert til et større forskningsprosjekt finansiert av Norges forskningsråd, som blant annet undersøker studenters læring i høyere utdanning i ulike profesjonsrettede fag. I mitt doktorgradsprosjekt vil jeg fokusere på læring blant jusstudenter, med særlig interesse for hvordan jusstudenter arbeider med juridisk metode.

Ett av formålene med prosjektet er å øke vår forståelse av hvordan studenter blir innviet i sin profesjon, og lære seg fagets tenkemåter og metoder. I den sammenheng ønsker jeg å observere PBL-kurset i internasjonal rett, som for det aktuelle studentkullet gjennomføres våren 2014 (i april). Kurset er valgt ut i samråd med studieledelsen, med bakgrunn i at det har en metodisk orientering og legger opp til studentaktive arbeidsformer. I prosjektet vil jeg gjerne følge studentenes arbeid i PBL-aktivitetene. For å forstå det studentene jobber med er det også ønskelig å være tilstede i undervisningen og ta notater av de forklaringer, råd og oppsummeringer som du som faglærer gir studentene. For å få presis informasjon ønsker vi å ta opp enkelte sekvenser der du forklarer faglig innhold for studentene på diktafon. Jeg ber også om å få tilgang på skriftlige ressurser som deles ut/inngår i læringsarbeidet.

Jeg ønsker videre å følge et utvalg studenter i deres kollokviearbeid for å få dybdeinformasjon om studentenes tilnærming til læringsaktivitetene og kunnskapskildene. Jeg vil rekruttere studenter som allerede er med i etablerte kollokviegrupper, og som er villige til å sette av tid til å arbeide parallelt med PBL-kurset. Det vil videre være aktuelt å gjennomføre intervjuer med disse studentene på et senere tidspunkt.

Prosjektet gjennomføres med støtte fra studieledelsen. Det er meldt til Personvernombudet for forskning ved Norsk Samfunnsvitenskapelig Datatjeneste, og gjennomføres i samsvar med Personopplysningsloven. Alle opplysninger vil bli behandlet konfidensielt og navn på personer vil bli anonymisert i publikasjoner fra prosjektet. Ved prosjektslutt 01.01.2019 vil samtlige transkriberte data bli anonymisert og lydopptakene slettet.

Deltakelse i prosjektet er frivillig. Du har anledning til å trekke deg fra prosjektet underveis uten å oppgi grunn. Vi håper imidlertid at du finner prosjektet interessant og er villig til å delta, da medvirkning og informasjon fra faglærerne er viktig for å gjennomføre prosjektet. Du må gjerne kontakte meg eller min veileder, professor Monika Nerland, dersom du har spørsmål.

Vennlig hilsen

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Jeg har mottatt informasjon om studien, og er villig til å delta

Sted/Dato: _____ Navn: _____

Appendix 5. Intervjuguide studentgrupper

Om å jobbe sammen i grupper - samarbeid

- Dere har jobbet sammen om å løse case-oppgaver. Jeg vil gjerne høre om hvilke erfaringer har dere med samarbeid om slike oppgaver (hvor mye samarbeider dere/ om hva? Hva får man ut av å samarbeide?)
- Hvordan har dere erfart det å samarbeidet med oppgavene i dette spesifikke kurset?
- Erfaringer med å samarbeide i studiet (om hva, hva gir det?)

Om oppgavene i kurset?

- Vil snakke litt om erfaringer med de ulike oppgavene
- Hva tenker dere om selve oppgavene (oppfølging: relevans, vanskegrad, nytte)
- Var det noen av oppgavene som var særlig interessante?
 - På hvilke måter/hva var den interessant?
- Var det noen som var særlig krevende?
 - På hvilke måter /hva var utfordrende?
- Følge opp:
- Spesifikke oppgaver
- Er dette eksempel på metode og/eller metodeutfordringer?

Om undervisningsopplegget i kurset

- Kurset er delt inn seminarer med lærer (innledning til og oppsummering av) av oppgaver og arbeid mellom disse møtene: Hvordan har dere erfart denne måter å jobbe på i dette kurset?
- Det står i beskrivelsen av kurset at «studentene får viktige metodiske kunnskaper gjennom arbeidet». Hvordan opplever dere kurset som trening i metode?
- Er det noen spesielle utfordringer ift metode i internasjonal rett?

Om internasjonal rett

- Hvordan har dere erfart jobbe med slike oppgaver innenfor internasjonale rett?
- Hva tenker dere om internasjonal (EØS-rett og folkerett) som fagfelt (hva er interessant, utfordrende, relevans for fremtidig yrke)

Planer videre - Om det å jobbe som jurist og spesialisering

- Dere er fortsatt tidlig i studiet. Men har dere tanker og/eller konkrete planer for hva dere ønsker å jobbe som når dere er ferdige på jussen?
- Hvilke egenskaper tenker dere er viktige i utøvelse av juss?
- Hva tenker dere er de viktigste utfordringene dere vil stå overfor når dere skal utøve jus i et yrke? Har noen bestemt seg for evt. vurderer ulike muligheter for spesialisering/spesialområde innenfor jussen?

Appendix 6. Intervjuguide lærere

Kursets historie og utvikling

- Hvor lenge har du undervist dette kurset?
- Kjenner du til opprinnelsen til at man organiserer kurset som man gjør nå?
- Har du hatt noen rolle i utviklingen av kurset / kursplanen/Lærerveiledning
- Hvor de ulike oppgavene kommer fra (hvilke personer/fagmiljøer involvert i utformingen?)
- Kjenner du til om det er foretatt noen endringer i dette kurset i nyere tid?

Fra lærerveiledningen (om undervisningsopplegget og studentenes læring)

Jeg har inntrykk av at det blir henvist til lærerveiledningen i kurset, og vil derfor ta den som utgp (Punkter s 1 jeg har behov for å få en bedre forståelse av):

- «Kurset skal finne fram til og formulere **gode problemstillinger**».
 - Hva kjennetegner en god problemstilling? (evt bruke eksempler fra oppgavene)?
 - Hva bestemmer om en problemstilling er god?
 - Hvilke utfordringer møter studentene i å utforme gode problemstillinger?
 - Hvilken rolle spiller rekkefølgen?
- Noen av oppgavene kan gi grunnlag for å trene studentene i effektive teknikker (tegning av partskonstellasjoner, tidslinjer, illustrasjoner), for å få oversikt over faktum. Jeg vil gjerne at du sier litt om hva du legger i dette? Hva er dette? *Er dette teknikker som har relevans for utvikling av metodekunnskap?*
- **Anbefalt struktur: 1. Krav(påstand)-2. rettsgrunnlag**, 3. Rettslige tolkningsargumenter, 4 subsumsjon, med fokus på 1 og 2. *Si gjerne litt mer om denne strukturen?* Er det andre begrunnelser enn tidsramme for å fokusere på 1 og 2?
- Det står også direkte at «studentene **får viktige metodiske kunnskaper gjennom arbeidet**». *Hvilke viktige metodiske kunnskaper vil du fremheve her?*

Oppsummert: Hva synes du at det er viktig at studentene lærer? Hva legger du vekt på i undervisningen?

Metodeutfordringer (i internasjonal rett?)

- Ut fra det du erfarer fra gjennomgangen av oppgaven sammen med studentene. Er det noe i gjennomgangen av oppgaven fra dette kurset som du har lagt merke til? Evt. «typiske» metodeutfordringer?
- Representerer internasjonal rett noen **spesifikke metodeutfordringer**? (traktater, rettskildebildet, annen vekting, forstå ordlyd, partskonstellasjoner, rettssubjekter)

PBL-kurset i internasjonal rett (struktur og integrasjon)

- Det å jobbe i en PBL struktur i dette faget, er dette noe du synes *fungerer godt*, evt noen utfordringer?
- Hva tenker du om at PBL-kurset inkluderer *EØS-rett og folkerett*? (fordeler? Utfordringer?)
- Noen *faglige dilemmaer* evt. *andre spesifikke utfordringer* i forbindelse med dette kurset, for eksempel til organisering av læringsaktivitetene i kurset
- Har du noen tanker eller ønsker om endringer i kurset?

Hvordan tenker du at kurset kan bidra til studentenes utvikling som jurist?

- *Lærerveil: studentene oppøver egenskaper* som ikke bare blir *nyttige senere i studiet* men også i *arbeidsliv*? Hva vil du fremheve her?

Om internasjonal rett og videreutvikling av jussen (innenfor og utenfor)

- Vi hører stadig at jussen blir stadig mer internasjonal, og jeg er interessert i hva du tenker om dette som en potensiell kilde til videreutvikling av faget.
 - Innenfor utdanningen?
 - Forholdet til profesjonsfeltet?