Away with oppressed methodology! Reflections on an experiment in Law & Development education

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Abstract

Ten years ago, six institutions came together to establish a joint doctoral programme. The shared motivations behind this project were to improve the quality of doctoral research that we encountered and to create a space for qualitative research within our law schools. We called the project the 'European Joint Doctorate in Law and Development' (EDOLAD). A key element of the programme was to be a core, and therefore compulsory, curriculum that all researchers were to follow. For most of the scholars involved in the project, L&D was a useful label that allowed us to bridge our different interests and to create shared ground. For some, though, the core curriculum also provided an opportunity to define what we thought L&D education or legal research should be. What emerged was a focus on critical methodology. This paper explores this by reflecting on what we had hoped to achieve with the core curriculum and draws on EDOLAD researchers' experiences to determine what impact our efforts at creating an L&D-focused education may have had. What our reflections here suggest, in part, is the difficulty of creating a coherent, field-building, programme of education in a multi-university collaboration in which resources are unevenly distributed; but also, more interestingly, that L&D as a concept – at least as we imagined it – seems to struggle to provide a scholarly identity for critical researchers.

I. Introduction

Almost ten years ago exactly, we – members of a consortium, of which the four authors here formed a part – embarked on the creation of a joint doctorate.[1] We submitted an application for a Lifelong Learning Programme grant at the end of February 2011 with six partners – the University of Edinburgh (UK), Deusto University (Spain), University of Tartu (Estonia), University of Oslo (Norway), North-West University Potchefstroom (South-Africa), and Tilburg University (Netherlands) as the lead partner – and heard in August of the same year that we had been successful. The choice of partners was partly made on the basis of existing collaborations between researchers and institutions (Edinburgh and Oslo, Tilburg and NWU, for example), but also on the basis of practical considerations of the need for a geographical spread likely to appeal to selection panels. For the grand amount of 360.000 euros, we promised to create within three years a joint doctoral programme in the field of Law and Development – under the acronym EDOLAD – with harmonised selection, supervision and defence regulations. Luckily, we were almost entirely unaware of how administratively ambitious such an undertaking was.

The need for funding to realise our ambitions and the particular choice of funding vehicle determined the form that the project could take. In the early 2000s, joint degrees were at the forefront of the EU's efforts to give shape to a European Area of Higher Education. European universities were under pressure to be part of European-wide networks; this meant that it was often more important to be in a project than to be sure what it was that one was becoming a part of. At the same time, these funding calls were designed to support existing collaboration; the calls had short deadlines so as to privilege existing networks. For individual researchers new to the European funding game, proposals had to be thrown together in a hurry and there was little time to understand each other's motivations for participation or develop a

[*] Corresponding author: m.e.a.goodwin@tilburguniversity.edu. We dedicate this paper to the memory of our EDOLAD colleague, Stephen de la Harpe (NWU), who died of COVID-19. Our thanks to the researchers who participated in our focus groups.

[1] The remaining members of our consortium were Jaan Ginter (Tartu), Aitziber Mugarra Elorriaga (Deusto), Anne Griffiths (Edinburgh), Anne Hellum (Oslo) and Gerrit Pienaar (NWU).

common vision before submitting an application. The development of a shared project would come later in the process of delivering on the work promised.

Equally problematic was the restriction on the type of partners and how funding could be distributed. We struggled from the beginning to work with a funding instrument designed to improve co-operation between European universities when our focus was, to a large extent, on research in the Global South. We were therefore not able to include partners from most of the rest of the world, and, although we were able to squeeze in a South African partner under the rules of the scheme, they were not entitled to the same funding as the European partners. This design fault, and the exclusion and inequality that it institutionalised, was a major weakness from the start and has continued – quite rightly – to plague the project throughout its lifetime. Striking this bargain – taking the funding on these terms – was the original sin of the project, made manifest in the word 'European' in the project title. We will not, however, delve further into this point further here, although it forms a backdrop to our reflections.

There were many different motivations for participating in this project: there were of course differences between the institutional reasons for joining a European project, as well as between the individual scholars who gave the project its shape and who did the work. Some of these motivations were clear up front and others emerged during the course of the project; we have undoubtedly constructed several new ones now in the act of writing this paper. For the scholars who gave their time to this project, we shared common research interests, notably the use of qualitative research to study legal phenomena in relation to vulnerable groups, primarily in the Global South but not exclusively. There was common interest in 'bottom-up' research[2] that questioned how law framed or shaped lived reality in contrast to top-down prescriptions of the application of law. Part of the attraction of a collaborative project was the desire to more firmly establish (or establish at all) socio-legal research within our law schools and/ or to establish research lines in development in the Global South. A network of connected scholars across Europe and South Africa strengthened our argument with our colleagues that our type of research had a place within law schools facing the bite of austerity cuts to public sector funding. Drawing on these shared approaches to research, the main motivation for EDOLAD was, however, to improve the quality of doctoral research that we regularly encountered within our law schools. This concerned primarily the desire to challenge the uncritical and top-down methodology of many doctoral research projects that engaged, oftentimes unwittingly, with North/South entanglements and global interdependencies. As such, we wanted to address the unthinking Eurocentrism of much of the international law and human rights research that we saw within our institutions.

While the programme carried the "Law and Development" (L&D) label, it is important to note that not everyone involved in the project identified as a law and development scholar; indeed, it is possible that no-one did at the outset. Instead, we brought various scholarly affiliations to the party, such as legal anthropology, human rights, international law, and law and gender. What united us was a concern for how law, broadly understood, structured questions of inclusion and exclusion; a research focus on the Global South, primarily sub-Saharan Africa; and, perhaps most importantly for the eventual shape that the programme took, a critical methodological approach. We were thus not consciously engaged in Law & Development field-building.[3] We chose the label because it could function as a bridging term for our different scholarly interests and identities; the vagueness of the term, due in no small part to the near defunct use of it,[4] allowed us to gather beneath it and it gave us, as researchers,

[2] In policy-speak, bottom-up was translated into 'knowledge-driven' research in our proposal.

[3] By conscious field-building, we mean the more formal, deliberate attempts to contribute to defining a canon or approach to research, and to forge scholars who identify with that.

[4] By the time that we came to develop this project, the term 'Law & Development' was slowly emerging from a period of active disuse. The failure of what Trubek and Santos have labelled the 'first movement' of L&D, and the self-estrangement that followed, entailed that in the neoliberal second movement, L&D

the space to cultivate the type of research that we wanted to see on the topics that we cared about. For example, not all of us saw ourselves as international lawyers and so critical movements within international law, such as TWAIL, were unappealing. Similarly, some felt that the human rights label could work but for others the label was the very opposite of a critical approach. Law and anthropology or law and society were non-existent as research areas within a number of the partners. The consortium institutions also belonged to different research traditions, whether stemming from a more Germanic or Anglo-Saxon tradition approach, or as part of a Jesuit tradition or as a nation undergoing rapid social transition. 'Development', encompassing the notion of progress embedded in global interlinkages, could be understood by all the researchers and the institutions that were being asked to invest in the project as something that they could relate to and understand. For example, in Tartu, this was shaped as an interest in rule of law; in Deusto, as a community-based economic understanding; and in Tilburg, as a global phenomenon. The participating institutions and a number of our colleagues were not familiar with the U.S.-based L&D movement of the 1960s and 1970s and so the label did not awaken any particular associations beyond the 'ordinary' meaning that could be given to the two words. The label was thus instrumental in enabling us to put together a broad coalition of scholars with a wide variety of interests and to gain the support of our institutions. Our use of the label could thus be viewed as opportunistic, although those directly involved in the project clearly felt that there was something to be gained by participating in a revival of the term and some of the participants did understand themselves to be engaging in advancing a certain vision of L&D scholarship. Beyond the opportunism of using the label was a feeling that the label was the best 'fit' for what we wanted to do together.[5] TWAIL, although sharing the same critical ethos, was limited to international law; Law and Society was either too vague and missed the focus on the concept and practice of development, or too specific in focusing on a geographical region or one particular aspect, such as gender. In sum, 'Law and Development' gave us the right amount of vagueness to allow for a broad coalition and enough focus to avoid meaninglessness; and it was sufficiently unknown as a movement outside the US to be institutionally acceptable for all the partners.

As with the overarching label, designing the details of the programme implied both conscious and unconscious choices about the extent and content of joint training, as well as the teaching methods. Despite the different specialisations, interests and background of the partners, controversies over these choices were rare – instead, a shared set of concerns and priorities emerged. There were four elements to this shared understanding of what good legal research in our domains consisted in, and that we therefore promoted as Law and Development. What we wanted to inculcate in our doctoral training were the following: firstly, a broad approach to the field as the basis for the thematic framing of individual doctoral projects. Secondly, we took a particular approach to method; EDOLAD research was to be empirical

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was not used to describe law and development research. Instead, the talk was of institutions and the rule of law; the scholarly fields were law and economics or, less often, law and society studies. By 2006, Trubek and Santos felt able to speak of a third movement of L&D and to gather scholars to critique it, but the contours of this movement remained unsettled. See, David M. Trubek and Alvaro Santos, 'Introduction: The Third Movement in Law and Development Theory and the Emergence of a New Critical Practice', in Trubek/ Santos (eds.), *The New Law and Economic Development. A Critical Appraisal* (CUP, 2006). For a fascinating take on the revival of the field, see Ruth Buchanan, 'A Crisis and Its Aftermath: Some Reflections on "Scholars in Self-Estrangement"' in Gráinne de Búrca, Claire Kilpatrick, & Joanne Scott (eds.), *Critical Legal Perspectives on Global Governance: Liber Amicorum David M Trubek* (Hart, 2014).

[5] See Siddharth Peter de Souza and Thomas Dollmaier, The teaching of Law and Development: towards inclusiveness and reflexivity across time zones' (2021) *International Journal of Law and Context* 1-17, who suggest that much of L&D research has a "self-reflective DNA" (2). It was perhaps this that we were unconsciously tapping into.

research, qualitative and grounded.[6] Thirdly, our methodology was critical, by which we meant interrogation of the processes of framing topics and policy, of methodological choices (one's own and others), and of power relations and political choices within the family, society and global ordering.[7] Finally, we also aspired to create a community, both as a good in itself (critical doctoral research is a disorientating and lonely journey) and as an alternative to that already existing at our different law schools.

Menkel-Meadow, in her article charting the rise of 'law and', suggests that how we understand the contours, content and method of a field should have something to do with how it is taught.[8] This article is an effort to reconstruct our understanding of Law and Development by reflecting on how we sought to implement the aims of the EDOLAD project and the extent to which we succeeded. In this way, we seek to contribute to understanding the revival of the Law and Development label. What our reflections suggest is that we have created a programme with both a core and a community, but not a scholarly group that self-identifies with Law and Development. This is due, it appears, to how we ultimately conceptualised and implemented Law and Development: in order to combine the four elements, plurality became a priority – thematically, methodologically and pedagogically. And while a programme designed around notions of plurality does not necessarily rule out the formation of a shared scholarly identity, in our case, it meant that it appears to have inhibited it.

II. Reconstructing intentions and experiences: notes on methodology

In order to understand what we wanted to achieve with the core curriculum in relation to what it may have achieved, we needed to come at the question from both ends. From the creators' perspective, we have re-read the planning documents that we drew up in preparation of the core curriculum and have reflected, individually and as a group, on what we had hoped to achieve. In order to gain the participants' experiences, we held two focus groups in March 2021 with 11 of the 16 doctoral researchers who underwent the curriculum.[9] Over two hours, we asked them to reminisce on why they had chosen the EDOLAD programme and on what they had expected from the core curriculum; on their experience of the curriculum, including things that particularly stood out for them; and on what influence the curriculum has had on their research project and on their scholarly identity. We then compared these findings with the contemporaneous evaluations of the core curriculum; these evaluations were done by anonymous survey for each year group for 2015-2017.[10]

Of the 11 focus group participants, 4 have defended their thesis and the rest were at varying stages of their doctoral trajectory, spread over 4 intake years (2015-2019); similarly, while most have completed their fieldwork, some have not yet started due to the Covid-19 pandemic. Some are still employed as doctoral researchers at one of the participating law schools, while others already have a position at an academic institution as a post-doc or Assistant Professor. One of the researchers did not follow the full 4-month curriculum as it did not run in the last year of the consortium contract. Her reflections are therefore based on the annual EDOLAD summer school that has replaced the core curriculum, but which follows its methods and

[6] See, e.g., Agnete Weis Bentzon, Anne Hellum, Julie Stewart, Welshman Ncube and Torben Agersnap (eds.), *Pursuing Grounded Theory in Law. South-North Experiences in Developing Women's Law* (Mond Books, 1998)

[7] As such, it drew on a combination of different critical approaches in legal anthropology, human rights and critical legal studies/ new approaches to international law. See, e.g., David Kennedy, 'The "Rule of Law", Political Choices and Development Common Sense' in Trubek/ Santos, op cit. 1.

[8] The statement is a normative one. Carrie Menkel-Meadow. 2007. 'Taking Law and _ Really Seriously: Before, During and After 'The Law'. 60 *Vanderbilt Law Review* 555, 556.

[9] 4 of those absent were from the first year of the programme (2015), the fifth was from the second intake year (2016). Two have defended their theses.

[10] We apparently did not conduct an evaluation in 2018, presumably because we knew that this was the last year of the cc in this format.

approach; she was also given access to the core curriculum modules in a shared online space and has been part of the community of EDOLAD researchers.

It is important to acknowledge the limitations to our approach here. The project documents on the core curriculum are a written reflection of agreements within the consortium about our aims and the plans to achieve them, but they were also written in order to convince our funder that we were delivering on our project goals. They thus reflect part of what we were doing represent the public version of our story. In attempt to address this, we have discussed amongst ourselves – even interrogated each other – about our intentions. Still, we are of course aware that it is not possible to re-capture our thoughts independently of what has transpired since, i.e. how effective or successful we think EDOLAD has been from our present-day vantage point and in the context of the relationships, indeed friendships, that we have built. The desire to create a coherent and meaningful narrative for ourselves will inevitably play a role in our reflections. This is also true for our doctoral researchers. The account, for example, that several gave of actively choosing for the core curriculum does not match our memories of the early months of their participation; similarly, the researchers were more critical in the post-CC evaluations than they were in the focus groups. While part of this may be because many of their early doubts and fears did not transpire, it is also likely to be due to their need to make sense of their doctoral journey as meaningful and successful.

Despite these limitations, the documents and the joint reflection during the work on this paper do illuminate how we constructed the programme, our aims in doing so, and can – we hope – serve as points for a reflection on the role of doctoral education in field-building, as well as on the practical challenges of such a programme.

III. Perceptions of good (legal) research: Our motivations explored

The stated goal of the EDOLAD project was to improve the quality of doctoral education and hence of research in the field of law and development.[11] What lay behind the articulation of this goal was a shared perception of the need to address what we saw as negative trends in legal research. The first trend was that of increasing specialisation within the sub-disciplines of law, such as international law. We agreed that this was producing young scholars who were unable to draw connections between their own work and that from other sub-fields, so as to be able to draw on insights outside their narrow frame or to situate their work in a broader context.[12] Although the purpose of doctoral research is indeed to drill down deeply into a narrow issue or question, to be able to say something interesting about development or, arguably, about law, it is necessary to be able to connect one's work broadly. The necessity was articulated in the original project application as connected to the need for better policy-making, itself understood as both richer and more grounded. However, a broad understanding of one's own research topic

[11] According to the original funding application for EDOLAD, we had six goals that the project was to achieve:

1. To contribute to locally-defined, knowledge-driven development through education via a sustainable doctoral programme;
2. To improve the quality of education in the field of law and development, thereby creating highly educated and mobile graduates;
3. To contribute to the achievement of a European Area of Higher Education;
4. To support research that acknowledges the complexity of 'development' and the conflicting interests necessarily involved;
5. To create a partnership between institutions in the Global North and South based upon mutual respect and knowledge-sharing; and
6. To promote gender quality.

[12] Similar concerns were, somewhat later, also expressed in the US context by well-known L&D scholars e.g. David M. Trubek, Law and Development: Forty Years After 'Scholars in Self-Estrangement' (2016) 66 *University of Toronto Law Journal* 301-329, in which he laments the increasing 'silo effect' of L&D scholarship.

is also connected to the critical methodology of the project: the broader one's awareness of related fields, the more one is likely to question one's own choice and framing of a topic. The EDOLAD approach was that broad knowledge regarding different areas of law, theory and methodology was a key fundament for L&D researchers.

The second negative trend that we wished to counter was that towards purely theoretical, desk-based research. The lack of or disappearance of practical research skills and the increasing risk aversion of funding bodies determined to push doctoral completion rates above 90% meant that legal doctoral research was, we felt, becoming entirely desk-based and utterly predictable.[13]

Our views on human rights can illustrate both points. To some of us, pushing back against the dominance of human rights as the sole frame for encountering the rest of the world was a central concern. To others, empirically grounded perspectives on human rights that emphasised legal pluralism were a tool to critically interrogate doctrinal approaches and Northern blueprints of human rights in development.[14] Jointly, we wanted to resist the sort of research that defined something as a human rights problem, explored how it was a human rights problem from the perspective of international human rights law from the comfort of a desk somewhere in Europe, and provided a simple solution that usually involved a better application of the same human rights law. While both of these trends – narrow and desk-based – could be seen in legal research generally, the implications of them for research engaging with the relationship between law and development are arguably much more worrying: the distance from research finding to policy advice can be short, even where highly specialised, desk-based research may provide little grounds for sound policy.

In addition to countering these trends, we also wanted to promote and foster a certain type of scholarship. A key driver of the project – one that came to be shared by all the participants – was the desire to promote critical scholarship and one that was attuned to the power asymmetries inherent both to law and to development. Without recognising how research (and policy) is shaped by methodological and epistemological choices, important insights are lost.[15] Researchers, we felt, should be able to recognise and respond to this when encountering the research of others, as well as in shaping their own research agenda. Moreover, failure to explore issues of positionality, politics and power in research misses the complexity and incompleteness of any type of engagement with the concept and practices of development.[16] It also entails participating in the perpetuation of the colonial academy.[17]

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[13] This trend is seemingly already in decline, as law schools in some countries, e.g. the Netherlands and Norway, now compete to emphasise their empirical approach to law. However, much of this research is quantitative and does not follow either a critical or grounded methodological approach.

[14] For example, the University of Oslo had a tradition of human rights research in this vein. For these scholars, EDOLAD was a continuation of the critical research and teaching on human rights (and women's rights in particular) that they had been involved in since the mid-1980s, in particular through the Southern and Eastern Africa Regional Centre for Women's Law at the University of Zimbabwe. See, e.g., Amy Tsanga and Julie Stewart (eds.), *Women and law. Innovative approaches to teaching, research and analysis* (Weaver, 2011).

[15] See, e.g., Stephen C. Yanchar, Edwin E. Gantt and Samuel L. Clay, On the Nature of a Critical Methodology (2005) 15 *Theory & Psychology* 27-50.

[16] See, Boaventura de Sousa Santos, 'From university to pluriversity and subversity' in de Sousa Santos (ed.), *The End of the Cognitive Empire: The Coming of the Age of Epistemologies of the South* (Duke University Press, 2018).

[17] See, among the now sizeable literature, Linda Tuhiwai Smith, *Decolonizing Methodologies* (Zed books, 2nd edition, 2012); Sara de Jong, Rosalba Icaza and Olivia U. Rutazibwa (eds.), *Decolonization and Feminisms in Global Teaching and Learning* (Routledge, 2018); Patricia Kameri-Mbote, Anne Hellum, Julie Stewart, Ngeyi Ruth Kanyongolo & Mulela Margaret Munalula, Engendering and decolonising legal education: South–South and South–North co-operation, in *Sharing knowledge, transforming societies*, Tor Halvorsen, Kristin Orgeret and Roy Krøvel (eds.) (African Minds, 2019).

Within EDOLAD, critical scholarship took a particular form, requiring both a critical methodology and qualitative research. This meant that, in practice, Law and Development research in EDOLAD was necessarily grounded: researchers were encouraged to constantly reflect on the relationship between their assumptions, the collected data, theory and methodology throughout the process. Through extensive fieldwork, the doctoral projects would seek to gain new insight into how individuals and communities encountered the practice of development – whether this was how Rule of Law professionals understand their role in Rule of Law policy implementation, or how medical professionals in India experience the practice of consent to participate in global medical trials or how forced migrants in Malaysia interact with refugee/ migrant regulatory frameworks and agencies. Our focus on qualitative research was partly driven by our own expertise and interests, but was, more importantly, a key element in our methodological approach: to counteract the prevalence of top-down research within law and of Eurocentrism, and to understand how development practices emerge, are implemented and experienced, we decided that it was necessary to focus our efforts on qualitative research.[18] This led us to take a very broad approach to the notion of who a development practitioner is, which has been one of the real revelations of the programme.[19] This research approach was to be situated in but also emerge out of a broad knowledge, albeit thin, of the various areas and methodologies practiced within law and development scholarship. In this sense, we wanted to convey plurality – of knowledge, of approach, of reality – to our doctoral researchers.

We did recognise, in conceptualising the type of research that we wanted, that this was a big ask of doctoral researchers. We knew from our own experiences that taking the path of critical scholarship within law schools can be a lonely road, and our plans also involved researchers heading out into the 'field' on their own for many months. Our researchers were also not located in a single institution but spread out over the six participating institutions. We therefore wanted to create a strong community amongst the programme's researchers to provide a forum for critical academic engagement that they were unlikely to find within their own law school and to provide a community of support to cushion them in the intellectual and practical difficulties that they were bound to encounter. While this was the main reason for our emphasis on community, we also hoped that a community would create an after-life of the project that perpetuated our beliefs about the nature and form of good legal research. The acknowledgment of this hope of course gives lie to our stated rejection of involvement in field-building – although the hope of an after-life was focused on critical, qualitative methodology rather than on the label L&D.

IV. Research education for good (legal) research: The Core Curriculum

To achieve our goals, we sought to create a training that would allow us to merge our visions for the kind of legal scholarship that we wanted to cultivate – a format that supported broad thematic orientation, deeper understanding of methodological choices, a greater proportion of empirical research in legal scholarship and a critical mind-set. The training was to be sustained and compulsory for all researchers in the programme. We thus planned a 6-month core curriculum of study.

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[18] Our choice was not intended to deny the importance of "methodological messiness" in the L&D field (Peter de Souza and Dollmaier, op cit. 5, 11; see also Celine Tan, 'Beyond the 'moments' of law and development: critical reflections on law and development scholarship in a globalized economy' (2019) 12 *The Law and Development Review* 285-321), although in practice it may have had that effect on our researchers.

[19] For example, one project focused on doctors running medical trials, one on forced migrants as development practitioners, another on city planning departments. This has enriched all of our understandings of how development as a narrative and as a practice is constructed and used in very different ways.

The core curriculum was thus the key tool for achieving the project's goals. As we put it in our 'Curriculum Plan (WP4.1)', finalised in March 2014, the core curriculum "aims to produce highly educated and mobile graduates that possess the necessary transferable skills and tools; that are trained in a multi-disciplinary approach to law and development; that have a broad understanding of the field; and that possess the necessary fieldwork research experience in order to be able both to pursue successful careers across the development sector. … Knowledge – critical reflection upon the who, what and the how of knowledge production – is both the starting point and the heart of the EDOLAD programme as it seeks to mainstream a knowledge-based approach to development." The content of the curriculum was to shape the interests and scholarly orientation of our doctoral researchers. Its design as a physical school, albeit with a rotating location, was to create a community of researchers by bringing all the researchers and participating faculty members together each year in a single place, as well as allowing for the sharing of experiences between researchers from different intakes.

The core curriculum ran across the three years of doctoral study, with the largest part focused on the beginning of the first year. Starting in January to accommodate the South African academic calendar, the first year's core curriculum extended over four months. Doctoral researchers from the different participating institutions were brought together for seminar-based studies, with faculty members from across the partner institutions flown in to lead the week-long modules. The first-year curriculum was followed by an advanced curriculum during the second and third year of the doctoral programme. According to the Curriculum Plan, choices about what to include in the core curriculum were to "reflect the priorities of the project and the competences of the teaching staff of the partner institutions." This led to 14 modules:

- 4 methodological modules: law and globalisation; law and economics; legal anthropology and legal sociology.
- 8 substantive modules: history and theory of law and development; actors in development; international economic law; actors in development; gender and development; sustainable development; poverty, human security and vulnerability; understanding the local.
- 2 skills modules: fieldwork skills; communication skills.

The original 14 modules were supplemented after the first two years with an additional module on data and development. The categorisation into the different types of modules – methodological, substantive and skills – followed the division routinely made at the time in EU descriptions of higher education competences.[20]

The core curriculum ran for four years from 2015-2018, after which the commitment of the participating institutions, laid down in the consortium agreement, expired. 14 EDOLAD doctoral researchers followed the core curriculum; an additional 2 doctoral researchers from one of the participating institutions also participated in the whole curriculum. The last doctoral researcher to start the programme was given access to all the resources of the core curriculum but the modules were not run for only one student. The doctoral researchers were drawn from a range of educational backgrounds and places. While the majority of the researchers were trained in law, this ranged from black-letter-trained law students to those trained in socio-legal studies. We also drew in researchers with no previous legal education, notably from linguistics and from anthropology. The researchers came from South Africa, the UK, India, Ethiopia, France, Spain, China, Russia, Canada, Ecuador and the Netherlands, with at least half having already pursued their education in a variety of countries.

It is through the collective practice of reflecting back on the process of developing the core curriculum that it became visible that the critical methodology was at the heart of what we were trying to do.[21] The emphasis on researchers attaining a broad fundament of knowledge was

[20] In this, we were influenced by Aurelio Villa Sánchez and Manuel Poblete Ruiz, Evaluación de competencias genéricas: Principios, oportunidades y limitaciones. Bordon 2011, 63, 147–170.
[21] See the caveats in section 2.

partly viewed as a good thing in itself and partly aimed at creating researchers being able to act as bridges between different areas of legal research throughout their later careers. Yet, implicitly, we saw critical methodology as being at the core of the L&D research that we wished to promote. This focus on method was visible in different aspects of the core curriculum.

The design process of the curriculum de-centralised the content of the modules. Although the topics of the modules were set by the project committee, the content of individual modules was delegated to scholars within the participating institutions. A clear choice was thus made to give freedom to participating faculty to teach the material that they thought relevant and appropriate to the topic. The core curriculum was thus not concerned with establishing a core content or a single way of understanding Law and Development.[22] The modules were allocated to institutions based on their specialised research competences and these institutions nominated and funded their own participating staff, who were charged with giving content to and teaching a particular module over the four years that the curriculum ran. The lack of central direction from the project leaders was intended to create greater variation in approaches. The modules were conceptualised as building blocks that could be assembled in a plurality of ways that were all interpretations of what Law and Development was. In addition to introducing our researchers to a range of authors and perspectives, we used critical reading techniques in a small-seminar format to interrogate an author's argument and to situate them in a particular academic stream or approach. While this technique was familiar to some of our researchers – primarily those coming from or who had studied in the UK or North America – it was not to our researchers from other academic traditions. Learning the tools of critical reading and becoming comfortable in challenging authorial authority was therefore an important part of what we did in the core curriculum.

At the heart of the core curriculum, then, was an attempt to force new doctoral researchers to engage with a plurality of approaches to studying law rather than to give them a broad but thin knowledge of different areas within Law and Development. Subjecting researchers to different ways of seeing a topic or question – for example, being required to view access to food from a trade perspective, an environmental one, a gendered one or from an institutional angle – forced researchers to contextualise and provincialize[23] their individual research projects, and to confront their own research framing from outside their scholarly silos or educational background. At the same time as introducing researchers to a range of voices writing about law and about development, we wanted to use the plurality of approaches to demonstrate the near-infinite ways of framing a research topic. The aim was to illustrate to our doctoral researchers the choices in front of them, but also to confront them with the knowledge that they are choosing: there is no right or obvious way of framing a research question, and the act of choosing is an act of knowledge-creation and thus of power.[24] Our objective was to make explicit the processes by which knowledge becomes authoritative, including their own role in knowledge creation, both in the framing of their research but also in the collection, interpretation and situation of data.

Another element of the method-driven approach to the core curriculum was the focus on giving researchers the skills to design and execute an empirical research project. In some cases, this meant selecting doctoral candidates whose project proposals were driven by empirical research; in others, candidates with doctrinal projects were selected with the aim of 'converting' those projects to empirical projects. Here there was less plurality of approach. Qualitative research is core to all the doctoral projects, although they make use of a variety of qualitative methods, such as semi-structured interviews, participatory action research, and

[22] This is perhaps the reason that we did not understand ourselves to be engaged in field-building.
[23] See Dipesh Chakrabarty, *Provincializing Europe* (Princeton University Press, 2000).
[24] See, relatedly, Duncan Kennedy, 'Legal Education and the Reproduction of Hierarchy' (1982) 32 Journal of Legal Education 591-615.

situational observation. The contradiction of stressing plurality whilst insisting on a single type of methodological research was one that became clearly visible only in hindsight.

The promotion of qualitative research over quantitative or combined research was driven by our own research interests and by our limitations; we did not think that good L&D research was exclusively qualitative, but we did think that it was a vital element of L&D research and we were not able to supervise quantitative research. It also did not occur to us to include historicization as a methodology,[25] viewing it more as an incredibly important shift within international law research but distinct from what we were trying to achieve. As such, the first-year curriculum included a two-week module introducing researchers to the purposes and problems of qualitative research design (listed in the curriculum as 'Legal Anthropology/ Legal Sociology'). In addition, at the end of their first year, researchers presented their fieldwork plans and received feedback, and the second-year curriculum was exclusively composed of a three-week module on fieldwork skills. The substantive modules also drew heavily on literature that gave voice to the subjects of development or took a bottom-up approach; although the curriculum included international trade law and law and economics, the emphasis was on poverty, gender, vulnerability, the local, and so on – thematic areas that formed an important part of our methodological approach.

The processes of self-reflection and academic positioning that the core curriculum aimed to engender were also built into the curriculum design. The participants were required at the end of each module to write a short reflection on how the week's materials and discussions had affected how they understood their project. In addition, each researcher was required to produce a revised project proposal (a Personal Research Plan (PRP)) at the end of the first-year curriculum that they were to discuss with their supervisors. Another design feature was to make the training an intense experience for the participants. We took them out of their home institutions, re-located them in a strange environment and put them together in a classroom with fellow researchers that they had not previously met. The first part of the core curriculum required them to spend several hours a day together for 4 months. When they were not discussing the readings, they were preparing for class; when not in class, they were with each other. In short, they were nearly always thinking about their project and the myriad possibilities for reframing it. The intensity, it was hoped, would force an openness of mind within individual researchers, as well as create a tight network between them.

In sum, our ambition was to shake up our new doctoral researchers, confront them with their preconceptions and cause them to reflect anew on what it is to study law (and development). As will become clear in the researchers' own reflections on their experiences of the core curriculum, the programme did succeed in forcing them to reflect on all aspects of the research design – even those who came into the curriculum with a clear, well-defined research project and who confidently proclaimed at the outset that they knew what their doctoral research was about. For some it led to entirely new research projects; for others, to significant changes to research design but not to approach. The purpose was not to force them to alter their world view, but to acknowledge that they had one and be able to situate it in scholarly debates. In retrospect, it is not surprising that the researchers did not find the experience of the core curriculum to be an altogether pleasant one – as they made clear to us at the time.

V. The researchers' reflections on the Core Curriculum

As organizers, we had our objectives and aims for what the programme would do and be – but the expectations and experiences of our doctoral researchers did not necessarily align with these.

[25] For an analysis of the various approaches taken, see Justine Bendel, 'Third World Approaches to International Law: Between theory and method, in Rossana Deplano and Nicholas Tsagourias (eds.) *Research Methods in International Law: A Handbook* (Edward Elgar, 2021), 402-415.

When they were asked to reflect on their reasons for choosing the programme, as with the programme's creators, the Law and Development label was not a draw in itself – with the exception of two researchers, one of whom had previously completed a master programme in Law and Development. Instead, most admitted that they had little knowledge of Law and Development as a field before entering the programme. However, in applying to the programme, they presumably felt that the research they wished to conduct was in some way related to 'law' and 'development', even if it was simply that their proposed research concerned law in a Global South location. More interesting in the context of reflecting on our experiment is that none of our researchers, having completed the core curriculum, identify as a Law and Development scholar, at least not in any straightforward way. What the label meant was instead viewed as subject to disagreement, with different emphases on policy or research and on different modes of critique all possible. What emerged from the discussion was that our researchers did not have a clear idea of what Law and Development is as a field or necessarily thought that it represented a field at all. Moreover, they were also not particularly interested in puzzling out what L&D is or should be or necessarily in trying to understand their scholarly identity in relation to this label. Instead, they chose to frame their own relationship to the field not as one of identity: one researcher spoke of "being in law and development, but not a law and development scholar". Another felt "some sort" of affinity with the field as critical practice. Yet another told us that he did not "learn L&D in the core curriculum but critical thinking", suggesting that, for him, the topic could have been anything: it was the method that mattered. Even those who actively participate in self-described L&D networks and conferences were more comfortable with other labels – including that of EDOLAD as a scholarly identity in itself. They were thus more likely to identify with the programme, and the community attached to it, than to L&D as a field. The resistance to self-identifying with L&D is perhaps not surprising given our educational approach. It could also be influenced by our own limited identification as L&D scholars. However, it also says something about the field itself: our researchers were not able to identify a core L&D field and what they had seen was not necessarily attractive to them. While some of this (lack of) positioning was driven by practical concerns – as one researcher asked: "what should L&D scholars set alerts for on LinkedIn job searches?" – most of it was intellectual; they simply felt little affinity with the label. Whatever we achieved with this programme, it was not to create a cohort of self-proclaimed L&D scholars.

If it was not the label that attracted researchers to the programme, what was it that brought them to EDOLAD?[26] The programme's stated emphasis on fieldwork was given by several researchers as the reason for choosing this programme. For some, their choice was clearly linked to their proposed research projects. For others, the interest was vaguer: they had sensed that there was another way of doing legal research other than doctrinal analysis, even when it was not necessarily clear to them what that was. While one researcher spoke of the programme's use of critical approaches as the main draw, the majority had little understanding of such approaches before the core curriculum.

In discussing their experiences of the programme, it became clear that for nearly all of our focus group participants, it was a transformative experience – one that most now viewed as necessary although not pleasant. It was the empirical aspect of the programme that was highlighted as the main element of this transformation: according to the researchers, it opened research up for them, required them to take a critical perspective, and to think about law in other ways. Unsurprisingly, this was most clearly felt by those from a strong blackletter law tradition. However, one researcher with training in quantitative research also emphasised the "freedom of qualitative research", of, as she put it, narratives rather than numbers. Several

[26] Clearly, funding could have paid a part in this, and some of the candidates did receive doctoral funding announced specifically for EDOLAD projects. However, most of our researchers competed for funding within a general law school programme: that is, they did not need to choose EDOLAD in order to have a chance at accessing funding.

researchers suggested that the core curriculum had led them to more bottom-up rather than top-down research design, that it changed their "approach to social problems". This can be linked to both the emphasis on empirical data, and the types of critique they were encouraged to engage in, as well as to the programme's emphasis on observing and questioning rather than designing solutions. Some researchers also connected their change of approach to the curriculum's focus on legal pluralism: close attention to empirical data, they told us, required an acknowledgement of the presence of legal pluralism – and this stimulated changes in their research design so as to situate their projects in a legally pluralist world. This both required them and gave them permission to "think more creatively about law". The transformative effect of empirical research was not only experienced in the sense of research design: the experience of gathering and analysing empirical data was also emphasised as an advantage for future career opportunities.

The core curriculum's broad grounding in different areas of (what we at least called) Law and Development came up in the discussions in different ways. Many recalled their shock and frustration at the sheer amount of reading they were expected to do in those intense weeks and the sense of dislocation that the experience created. The dislocation was not only physical, but the curriculum was also intellectually disorienting for most of our participants; it forced them into a recognition of "how much they did not know", as one researcher put it. However, there was clearly also a sense among many in the group of, retrospectively, appreciating the value of having undergone it. One researcher noted that for her it was a necessary process of "becoming comfortable with discomfort" – an expression close to our experiences of what critical scholarship entails. The main value of the breadth of the curriculum, according to the researchers, was how each module helped them see their project from new angles and several mentioned how the weekly exercise of writing up their reflections on what they had learned impacted on their project design. The role that the broad knowledge base played in enabling the researchers to engage in discussions and intellectual collaborations with academics beyond their own field or topic was also acknowledged.

Although it is impossible to separate the impact of the core curriculum from the role played by supervisors and by the community of EDOLAD researchers themselves, the focus group discussions suggest that the core curriculum also played an important role in shaping research design towards more critical approaches. To some, this clearly entailed a shift away from intentions to contribute policy-solutions: "from problem-solving to interpreting a phenomenon". For one researcher who came from rule of law practice, the core curriculum was instrumental for her in making a transition from practice to academia. Others professed a continued interest in influencing policy, for example by combining academic work with ad hoc consultancy work. There were various ideas put forward about how to "make a change" through their knowledge, but they were based on ideas of participation and of challenging existing distribution of power and information, rather than providing concrete solutions. That the curriculum also led to a strong awareness of positionality came up repeatedly during the focus groups: awareness of one's own biases and of being forced to reflect on their own positionality both in the field and in the literature they engaged with. Tied to this was the recognition that the same applies to others: no research is neutral or impartial. This aspect of the training was further seen as supporting the development of their own position as a researcher, of formulating their own voice or of situating their own experiences or personal identity in their research.

The researchers' sense of the training as a form of 'shock treatment' came across clearly in the focus groups, and expressions of curiosity and confusion mixed with anger is also something that comes out clearly in the contemporaneous evaluations. Yet, what also emerged was a strong sense of community between them, in part forged by the dislocation created by the training, both physical and intellectual, of "being confused but confused together" as one participant put it. One researcher suggested the bonding effect of stress and difficulties related to fieldwork, and the mutual support in this regard. Another noted that although the

researchers were working on very different topics, she had the sense of being part a common project addressing similar types of questions. Several stressed the importance of the informal contact between the researchers during the periods of training – the "chats over coffee" between sessions or a walking tour through Bilbao in which researchers from several intakes discussed methodology. The value of the emerging EDOLAD community was stressed by nearly all participants in the evaluations at the time, with several noting that it was the best part of the core curriculum experience.

However, there is another side to the community that has emerged, one in which the experience of the core curriculum has set EDOLAD researchers apart from the rest of the law schools that they inhabit. While some researchers highlighted that the curriculum's broad training enabled them to be bridge-builders across different domains and approaches within their law school, they were also explicit in stating that they were "no longer a fit with the rest of the faculty". One researcher noted that she was now "unemployable in law faculties", although she noted that her empirical research skills made her "much more marketable", presumably in other branches of the academy. All the three above factors that set this programme apart from others at the law schools could contribute to this perceived gulf: the plurality of voices and approaches, the centrality of empirical fieldwork, and the critical approach. The sense of community was not only linked to practical issues, but seen by the researchers as establishing a sense of scholarly identity. The scholarly 'home' for our researchers is thus, it appears, largely within EDOLAD itself.

VI. Some Concluding Thoughts

It seems that, seen broadly, we achieved many of our aims with the programme and its embedded training. For nearly all who participated in it, the core curriculum changed their approach to legal research and how they positioned themselves as a scholar. Regardless of their disciplinary background, they told us that they could not imagine now being scholars "in the old way" after the core curriculum. In the words of one, it was not possible to go back into the box of "oppressed methodology". Moreover, for those now working in academia, it has changed the way they teach – even for subjects that are distant from L&D. On a personal level, several mentioned that having the "tools" to be able to think more broadly about the law had given them confidence, had "empowered" them, to be independent scholars.

However, turning the critical approach that we wanted to inculcate in our students on to our own endeavour, the project has also been a failure. The consortium agreement has not been renewed and the formal programme has ended. The project's ambition has played a role here. A core curriculum that moves researchers and faculty around to multiple locations requires institutions with deep pockets. The expense of the core curriculum for a handful of researchers was never likely to be sustainable. Besides being expensive, intensity meant that only a small group could benefit. Moreover, the set-up of the programme, including the training, relied on doctoral researchers receiving substantial salaries or scholarships, including additional funding for fieldwork and trainings. This was the case for some of the researchers but by no means for all, which introduced another level of structural inequality into the programme. These researchers were forced to endure constant financial pressures on top of the deliberate uncertainty created by the curriculum – a double burden that we had not anticipated and that they should not have had to bear. An additional strain came from the difficulty of embedding such a niche programme within our institutions: the programme relied on drawing in non-EDOLAD colleagues as co-supervisors of the projects. There was, however, a limited pool of colleagues who shared our commitment to plurality or to qualitative research. This meant that it was not always possible to find suitable co-supervisors across the partner institutions and our researchers sometimes lacked the guidance that they needed, particularly on further developing the empirical skills that were necessary for their fieldwork.

We also underestimated the time this type of doctoral projects would require. We asked the researchers to undergo 6 months of intense training designed to cause them to question every aspect of their research project, before a 6-9 month period of fieldwork followed by processing and analysing their data. Although we anticipated that it would be difficult for many of the researchers to complete this within the period of their funding, we assumed that either funding would be extended for a period of completion time or that researchers would finish up their thesis whilst working, as many of us had done. Whether a reasonable assumption or not, it added yet more pressure onto our researchers. When designing the core curriculum, we intended it to be demanding. In hindsight, we underestimated the combined effects of the practical, personal, financial and academic challenges the researchers would face throughout the programme.

Moreover, we should question how aware the researchers were of the programme's challenges. During the selection stages, we tried to be explicit in warning applicants of what the programme required – at least, as far as we understood it at that moment. Yet, we now wonder if we sufficiently acknowledged the lack of real choice they faced: either because the programme offered funding to write a doctorate and they wanted to write a doctorate, or because they were not able to imagine, given their doctrinal education, what the programme would demand of them. It was not at all obvious at the selection stage or during the core curriculum who would be able to cope, even thrive, in the conditions that we created, and who not. Some were able to handle the uncertainty that we created and have clearly benefitted from it, as they themselves declare. Others, however, have struggled. This has had real costs, not only in delayed and unfinished doctoral projects,[27] but also at a personal level. All of this, of course, raises ethical questions – regardless of the fact that most of the researchers have produced or are producing excellent work and seem to value the experience we forced upon them.

In addition to these concerns, EDOLAD cannot escape the colonial critique. While we sought to present a variety of voices, the core curriculum undoubtedly privileged western forms of knowledge, through ignorance of other voices and language restrictions. Moreover, the consortium is primarily a community of Northern-trained, mainly white, academics. This is the result of outreach limitations, but also of our institutional understandings of what constitutes academic research, in which we participate. Even within the consortium, we helped to cement existing inequalities between partners due to the financial rules with which we started and by not challenging the EU-funding fiction that each partner enters the consortium on an equal resource footing.

What do all these reflections tell us about teaching L&D, and about the relationship between teaching and field-building? As noted earlier, Law and Development was the label that we thought would best accommodate our ideas about what constituted good legal scholarship when writing about the relationship between law and social change. While we chose to eschew an idea of formal field-building, we obviously felt that the label had something positive to it, primarily an openness to the type of research that we wished to promote in a way that labels such as 'international law' or 'human rights law' did not. While we accept the work of scholars that argue that Law and Development cannot escape its colonial legacies and its embeddedness in continuing practices of imperialism,[28] one advantage of the label is that it keeps the spotlight on those practices: removing the word 'development' will not change the underlying practices that the development narrative and surrounding industry represent. Moreover, we see it as our responsibility, as Northern, white, privileged researchers, to explore and cast into the critical glare the relationship between the academy and colonial practices in our countries.

[27] It is yet unclear as to how many will successfully complete their projects, but clearly many will have a substantial delay in completing; the average time to completion is around 4.5 years.

[28] See, for just one example, Sam Adelman and Abdulhusein Paliwala, Beyond law and development? in Adelman and Paliwala (eds.), *The Limits of Law Development* (Routledge, 2021)

Our choice for the L&D label has not, however, created a cohort of scholars that identify with it. While field-building within L&D was not our aim with this project, what our experiment suggests, perhaps not surprisingly, is the unlikelihood of contributing to coherent field building without a sustained and formal commitment to doing so at the outset. More interestingly, perhaps, it raises the question of whether a programme dedicated to critical methodology and plural ways of thinking is capable of creating a desire within researchers to identify with a field, or at least a large one.

Despite this, by choosing to use the Law and Development label, we have played a role in the on-going revival of a L&D field, particularly within Europe.[29] However, it is worth noting that the form that we gave Law and Development within EDOLAD, with our emphasis on critical methodology, is not mainstream within this revival, at least as we experience it. This is another suggested reason that we have not created a group of scholars that self-identify with the Law and Development field: our version of L&D has not led them to a group of like-minded colleagues using the same label outside the programme. Instead, the core curriculum seems to have created a shared scholarly identity that reflects our intentions with the programme and thus our researchers have more in common with scholars within the TWAIL movement or critical methodologies elsewhere within the legal discipline.

Whether what EDOLAD does can claim to be Law and Development is not clear to the researchers – and perhaps not fully to us either. However, the content of any scholarly identity is arguably more important than the label. Our researchers are equipped with the critical research skills that are at the core of what we think the field should encompass. If L&D has no accepted understanding of the promises and perils of law and legal institutions for societal change – if we know that the quality of legal institutions matters but have little idea of what legal reforms are needed to achieve them[30] – then the role of L&D education cannot be to teach answers, but to train researchers in how to ask questions and to cope with intellectual uncertainty. Although our critical methodological approach is not exclusive to L&D studies, or to research on the Global South, the design of the curriculum suggests that we understood it to be an essential element of it. And while our education model both raised some ethical issues and was difficult to maintain from a practical/ financial perspective, we remain committed to the type of education that we tried to create in the programme. What we have learned is that concrete elements of the curriculum can be reproduced in similar but less resource-demanding ways: for example, through sessions that bring together multiple lecturers to explore different thematic or methodological approaches with the aim of systematically revisiting and reframing a specific topic or project. Today, we attempt to do this in summer schools, held in the Global South, that focus on qualitative research skills and critical method. These annual coming-togethers attempt to be more accessible to less privileged researchers and to be less prescriptive on content and approach. What we see is that our participants are more radical in method, more determined to realise de-colonized knowledge creation, than we were in the core curriculum. Instead of teaching a set curriculum, our aim now is to provide a flexible space in which researchers can cultivate a critical mindset and create a community that is sufficiently confident to be comfortable with discomfort. As we had hoped all long, the community we have gathered around the programme to date has already begun to outgrow us.

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[29] See, for example, the Law and Development Research Network, which was formed in 2015 and formally 'en-chartered' as a collaboration in 2017.

[30] See, e.g., Michael J. Trebilcock and Mariana Mota Prado, *What Makes Countries Poor? Institutional Determinants of Development* (Edward Elgar, 2011); also, Kevin E. Davies and Michael J. Trebilcock, 'The Relationship Between Law and Development: Optimists versus Skeptics' (2008) 56 *American Journal of Comparative Law*.