LAW AND DEVELOPMENT RESEARCH GROUP – 21ST CENTURY LEGAL EDUCATION

The Law and Development Research Group has discussed at its General Assembly of 27 October 2017 and in three working group meetings held in the course of November and December, the teaching its members is providing at the master's level. All members of the Research Group have also repeatedly been informed and consulted in writing.

The teaching of members of the Law and Development Research Group is mainly, although not exclusively, situated in the LLM that was launched in the academic year 2016-17. The exercise of reviewing teaching methods and substance was therefore already to some extent undertaken in preparation of the introduction of the LLM programme.

The working language of the Law and Development Research Group is English. Most of the teaching takes place in the LLM. This document is therefore in English.

In the process of curriculum assessment, we have first identified key societal challenges for which we need to prepare future generations of lawyers. Substantively, sustainability, diversity and technological change were identified as key societal challenges with which our teaching has to engage in a much more systematic and profound way. We then looked for widely agreed standards, good practices and benchmarks that could guide us in engaging with two of these challenges in our teaching, namely sustainability and diversity. For lack of expertise, we have not engaged with technological change yet.

In what follows, we first take stock of the main changes that were introduced in our teaching when the LLM program was designed. In section 2, we discuss the outstanding challenges for our own teaching, and in section 3, for the law degree more in general.

I. CHANGES INTRODUCED IN 2016

Substantively, the challenges of sustainability and diversity are now more explicitly mentioned and engaged with in the Sustainable Development and Human Rights module. Sustainability features explicitly in the name of the module and one of the courses (*International Law and Sustainable Development*). Diversity is touched upon in *Law in Developing Countries* and in *Human Rights and Global Justice*.

As to teaching methods, a flipped class approach and the teaching of skills were strengthened, more co-teaching was introduced, and cross-course evaluation and co-assessment (in particular in the project week) were integrated in the human rights and sustainable development module. The

introduction of a large simulation exercise during the project week brings insights from the different courses together and takes a more problem-based and systemic-thinking approach. The composition of both faculty and student body has been internationalized (and not only Europeanized) by securing funding that allows to bring in non-Western teaching faculty as well as twelve participants from the global South.

II.   OUTSTANDING CHALLENGES FOR TEACHING BY THE LAW AND DEVELOPMENT RESEARCH GROUP
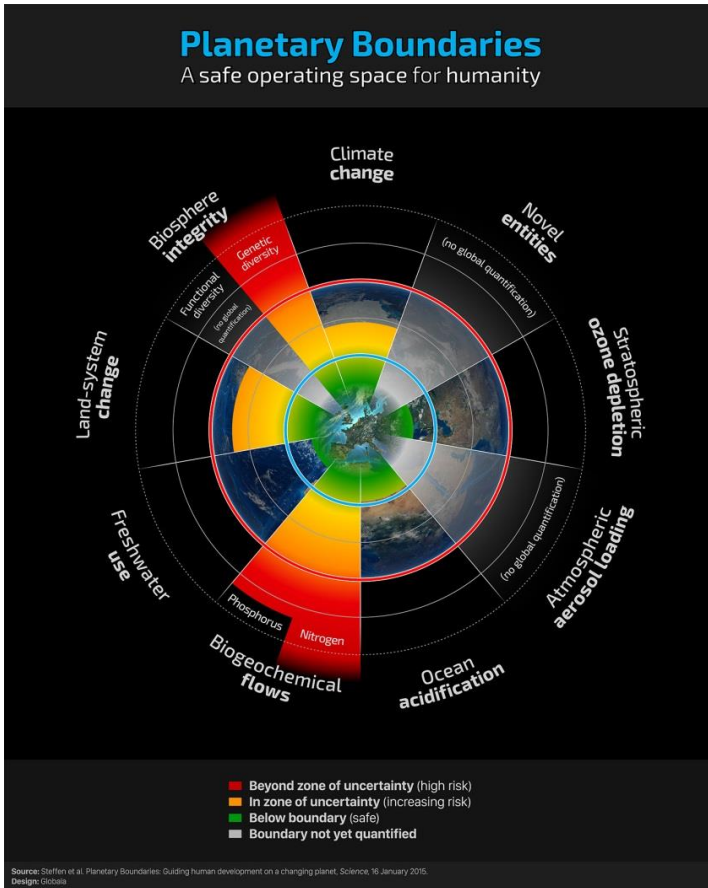
Notwithstanding the changes that were introduced, two challenges remain: further integrating sustainability competences, and inclusive teaching in all courses. The following two sub-sections outline the background of why it is crucial to integrate sustainability and diversity in legal education on the basis of established frameworks.
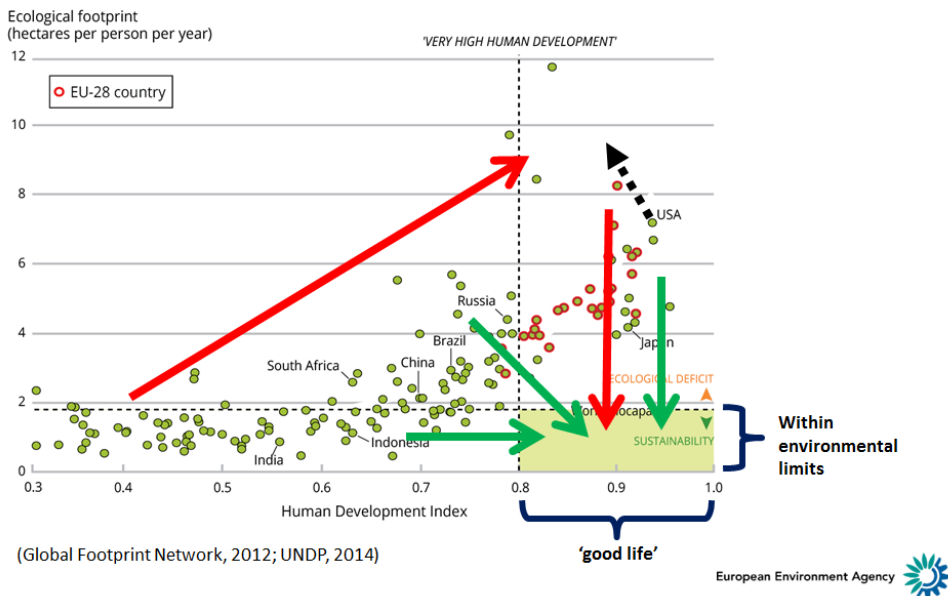
1.   INTEGRATING SUSTAINABILITY IN EDUCATION

Anno 2017 our global society faces several wicked problems such as climate change, biodiversity loss, mass migration and pandemics. These are complex systemic social challenges that are not or only partly understood and require continuous, iterative trial-and-error solution seeking. Two images below show the ecological sustainability challenge in brief: the report on planetary boundaries from the Stockholm Resilience Institute[1] and the 21st century challenge of providing an adequate standard of life for all humans within the earth's carrying capacity.[2]

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[1] J. Rockstromm et al., Report on Planetary Boundaries.
[2] Slide prof. dr. Hans Bruyninckx based on UNDP 2014 graph.

Planetary Boundaries
A safe operating space for humanity

Climate **change**

Biosphere **integrity**
Genetic diversity
Functional diversity (no global quantification)

Novel **entities** (no global quantification)

Land-system **change**

Stratospheric **ozone depletion**

Freshwater **use**

Atmospheric **aerosol loading** (no global quantification)

Phosphorus
Nitrogen

Biogeochemical **flows**

Ocean **acidification**

- 🟥 **Beyond zone of uncertainty** (high risk)
- 🟧 **In zone of uncertainty** (increasing risk)
- 🟩 **Below boundary** (safe)
- ⬛ **Boundary not yet quantified**

Source: Steffen et al. Planetary Boundaries: Guiding human development on a changing planet, Science, 16 January 2015.
Design: Globaïa

Challenge of the 21 century: 10 billion people, one planet

Ecological footprint
(hectares per person per year)

'VERY HIGH HUMAN DEVELOPMENT'

○ EU-28 country

Russia
Brazil
South Africa
China
USA
Japan
ECOLOGICAL DEFICIT

Indonesia
India

for biocapacity
SUSTAINABILITY

Within environmental limits

Human Development Index

(Global Footprint Network, 2012; UNDP, 2014)

'good life'

European Environment Agency

The red arrow pointing to the upper right shows the current global tendency of eco-destructive means of production and consumption to support the increase in living standards. By the time the red arrow points down, there will be no ecosystem anymore to support any living standard. What is required to

solve this challenge in order to have the global society follow the green arrows, requires change in how we gather new knowledge, teach skills and organize education. Coming student generations inevitably will have to deal with them in their future careers in business, government or legal practice.[3] For that reason, a framework of sustainability competences has been developed during the last decades. The list of sustainability competences below has been validated by the UN Education for Sustainable Development[4] and is also used by the Flemish government to benchmark sustainability in higher education.[5] The table below briefly describes the different competences and provides examples of how they could be integrated in legal education drawing on experiences of the Law schools of Queens University Belfast[6], Vermont University[7], Bristol University[8] and Manchester Metropolitan University.[9]

Table 1. Sustainability competences

Competence	Explanation	Examples of teaching methods and topics
Strategic Management and Action	Ability to design collective projects, and interventions, transitions and strategies for sustainability development, and the ability to engage oneself actively in responsible actions to improve the situation and the sustainability of socio-ecological systems. This implies profound knowledge on the substance of the law and an entrepreneurial and innovative attitude.	Policy briefs, contract negotiations, drafting exercise of legal norms, simulation of project or policy negotiations, legal clinics
Intercultural and interdisciplinary communication and working competence	Ability to structure relationships, track problems and recognize the legitimacy of other views on environmental, cultural, social and/or economic aspects in processes.	Group works, simulations, legal clinics • This relates to diversity and inclusive education discussed below
Systemic Thinking	Ability to identify and analyze all relevant sub-systems across various domains and disciplines, including their borders.	Problem based learning, case studies, simulations • Case on carbon tax or environment-related tax shift discussing implications of the law on economic, ecologic and social systems. • Multilevel governance in climate policy • The role of criminal law in addressing environmental pollution (relation between crime and environment)

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[3] Ref. prof. dr Hans Bruyninckx, director European Environment Agency, presentation on 'Challenges for policy and knowledge institutions, University of Antwerp, 28/11/2017.

[4] See Nagoya Declaration on Higher Education for Sustainable Development

[5] See further ontwerpnota Duurzaam Hoger Onderwijs, Jean Hugé & Wim Lambrechts, 2017, p. 5 and Ploum, L., Blok, V., Lans, T., Omta, O. 2017. Toward a Validated Competence Framework for Sustainable Entrepreneurship. Organization & Environment, in press, doi: 10.1177/1086026617697039

[6] Peter Doran (2016) Head, hand and heart: immersive learning for a demanding new climate at Queen's University Belfast's School of Law, The Law Teacher, 50:3, 341-351, DOI: 10.1080/03069400.2016.1241049

[7] https://www.vermontlaw.edu/academics/centers-and-programs/environmental-law-center

[8] https://wikis.bris.ac.uk/pages/viewpage.action?pageId=55088426

[9] http://www.celt.mmu.ac.uk/esd/

Normative competence	Ability to identify values, principles and goals inherent to sustainable development, to apply and reconcile them with internal and external stakeholders, without arbitrarily embracing any standard. This implies profound knowledge on the substance of the law and the normative principles guiding them, besides basic knowledge of ecological systems such as climate change, biodiversity loss, etc. and their effects in order to be able to make value judgments.	• Case discussions in legal field. • Legal clinic on carbon tax
Anticipatory or future thinking competence	Ability to analyze, evaluate and develop future visions collectively, whereby the impact of local and/or regional short term environmental, social and economic decisions and issues are considered on a global/cosmopolitan scale and in the long-term. This implies profound knowledge on the substance of the law and insight in the context in which the law is implemented.	Writing policy briefs on legal reform taking into account potential impacts on environment, economy, social standards, drafting legal norms, simulation of project or policy negotiations
Participatory competence	Ability to initiate and facilitate collaborative and participatory sustainability activities and research.	• Group work • Interaction with various actors (in reality or by simulation) that have a stake in the issue • Stakeholder mapping on legal issue

2. DIVERSITY AND INCLUSION

Student population is noticeably diversifying. If our faculty wishes to educate the next generation of law practitioners and academics, it ought to consider it a foremost priority to pay systematic and sustained attention to said changing environment and profoundly ponder on ways how to best train, and engage with, a diverse group of learners in an inclusive manner. Indeed, as graduated lawyers, they will go on to take on vital functions, mandates and responsibilities and must in that capacity be both ready and equipped to detect, understand and address the needs of a diverse society, in a way that is free from prejudice. Such can be attained and ameliorated in several ways that cumulatively aim at a holistic approach to diversity and infuse students with a deep appreciation of diversity, fully corresponding to, and endorsed by, the University's policy on the matter.

Indeed, 'diversity and participation' constitutes one of its seven strategic policy lines. In accordance with its declaration on diversity, the latter is understood broadly, including diversity based on gender, sexuality, ethnicity, culture, socio-economic status, ability, age, religion, etc.[10] In its policy note of 2016-2020, the University explicitly considers itself a cosmopolitan and pluralistic university, where *'all students and staff should feel at home'* and formulates the added value of diversity as *'a source of creativity and enrichment through the exchange of different insights and views'.*[11] Hence, the university

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[10] See: https://www.uantwerpen.be/images/uantwerpen/container1179/files/150213-29%20pt%207_2%20doc%20Diversiteitsbeleid%20DEF%20(2).pdf.
[11] See: https://www.uantwerpen.be/images/uantwerpen/container1179/files/Beleidsvisie%202016-2020.pdf.

commits itself to making room for diversity, ensuring equal opportunities, and maximizing both staff and students' capacities for development and growth in a setting that positively values diversity.[12] Accordingly, every member of its community is expected to commit to functioning in both a diverse university and society.[13] Finally, as concerns religious diversity, the university has a long-standing policy tradition of active pluralism, which, contrary to passive pluralism, entails an inclusive approach to neutrality allowing for religious ideas and discussions to take part in the public space, fostering tolerance, active interest in and exchange of different beliefs and avoiding exclusion on the basis thereof, thus contributing to a more sustainable, harmonious coexistence where open dialogue – both within and between different beliefs – and critical reflection are key.[14]

Table 1. Diversity competences

Areas	Changes proposed	Examples
COURSE CONTENT & MATERIALS	Teaching staff should critically revisit course content, guided by the chief questions: 1. do the content and materials used accurately represent and reflect various perspectives and the diversity present in today's society – and thus, classroom? 2. do (unconscious) stereotypes and biases (e.g. on the basis of gender, sexuality, ethnicity, nationality, socio-economic status, ability, age, class, culture, religion) influence said content?[15] In addition, teaching staff should seek to promote awareness amongst students of the fact that the law – contrarily to how it is sometimes presented in class or presumed by learners themselves – does not operate in a vacuum but is contrarily entrenched in the socio-political and historical fabric of the state. Although insights from courses such as anthropology, political science, psychology and sociology that serve to debunk the myth of the neutral nature of the law should be offered at an earliest possible stage in the legal training, the master courses still offer windows of opportunity to raise attentiveness as to the emancipatory but also conservative potential of the law and the power-relations that relate to and are reflected in, or perpetuated by, the law.	Seemingly straightforward yet relevant examples concern natural persons featured in case studies: are these case studies all white, from middle class families? Do handbooks use inclusive terminology and language? When experts and specialists are invited on panels, do we ensure gender-balance, experts with different ethnic-cultural backgrounds, etc.? For instance, instead of solely focusing on the outcome of cases, case law analysis offers the chance to reflect upon broader questions such as (restricted) access to the law, procedural justice, how complaints presented by claimants are reformulated in the proceedings, how the law (re)frames them, how we comprehend a lack of implementation following certain rulings, etc. In addition, students should be stimulated to directly engage with topical issues and current events that are covered media and draw a lot of popular attention, by respectfully partaking in discussions in class. Although, following the example of Ghent University, a Law and Diversity course could provide a platform to deeply grasp the interrelatedness between law and outside groups (women, LGBTQ, ethnic-cultural minorities, disabled persons), those relations are often already implicitly present in course

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[12] See: https://www.uantwerpen.be/nl/overuantwerpen/missie-en-visie/opdrachtverklaring/ .

[13] See: https://www.uantwerpen.be/images/uantwerpen/container1179/files/150213-29%20pt%207_2%20doc%20Diversiteitsbeleid%20DEF%20(2).pdf.

[14] https://www.uantwerpen.be/nl/overuantwerpen/missie-en-visie/actief-pluralisme/.

[15] https://www.uantwerpen.be/images/uantwerpen/container1179/files/Beleidsvisie%202016-2020.pdf.: *'De invloed van het eigen referentiekader op het persoonlijk handelen mag niet worden onderschat; bijkomende interculturele competenties zijn nodig om te kunnen werken binnen een multiculturele context.'*

		materials and can be further accentuated by explicitly stressing them, together with a general dedication to diversity and including diversity statements in the syllabus.
INCLUSIVE TEACHING AND LEARNING METHODS	The notion of inclusive education is often exclusively positioned in primary and secondary education, whereas it is of equal significance in tertiary education. As a consequence, the question should be posed whether our teaching staff is equipped with inclusive teaching and learning practices.	Do we use a variety of teaching activities encouraging a student-centered approach to teaching and learning?[16] Do we keep in mind (groups of) students who could potentially and inadvertently be excluded upon the use of certain teaching methods? Do our teaching methods support students to engage in material in different ways, e.g. blended learning? Do we make adequate and sufficient use of group work as an occasion to foster inclusion and expose students to a range of culturally challenging views, opinions and contexts? Should we hold faculty workshops on diversity, (racist) prejudice, (white) privilege, discourse and framing, to train staff in becoming more aware of their own bias as well as the bias sometimes inherent to, or affirmed by, the law?[17]
REASONABLE ACCOMMODATION	The faculty must guarantee classes to be an inclusive and accessible environment for all of its students, especially those with disabilities and special needs, by providing appropriate accommodation and removing barriers to educational access.	Do we utilize a variety of teaching strategies, activities and assignments that accommodate the needs of students with diverse learning styles, abilities, backgrounds, and experiences? Are course materials, activities, assignments and exams designed or modified in such a way that they are accessible to all students, including auditory and visual learners with sight and hearing disabilities? E.g.: is information presented both orally and visually to accommodate both students with visual or auditory impairments in addition to students with various learning preferences?
INCLUSIVE ASSESSMENT METHODS	Inclusive teaching correspondingly necessitates inclusive knowledge assessment methods that are inherently designed to make them inclusive and accessible to all students.	Does our staff know the process for developing alternative assessment? Do we navigate assessment options that are a blend of collaborative and individual assignments, allow choice in assignments, or provide alternative assessments?
CLASSROOM CLIMATE	A faculty that takes its student population seriously must consider it its responsibility to create a classroom where the wellbeing of all	In several conversations held with law students, it has appeared that students raise concerns about classroom climate and

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[16] *'De universiteit investeert in een inclusief studieproces door obstakels weg te werken. Via een studentgecentreerd en competentiegericht onderwijs geven we studenten optimale kansen tot zelfontplooiing.'*

[17] Ibid.: "*Er is bij alle werknemers nood aan opleiding rond diversiteit in al zijn mogelijke vormen met bijzondere aandacht voor interculturaliteit.'*

	students – regardless of ethnicity, nationality, economic background, age, abilities, sexual orientation, political beliefs and religious values – is non-negotiable. A harmless learning environment and safe space for the existence and exchange of diverse backgrounds, ideas and opinions and where an ethos of inclusion and larger sense of solidarity and community among students should accordingly be fostered.	mention having been subject to stereotypical comments both inside and outside of the classroom. Along with aforementioned strategies to raise diversity awareness, the ongoing organization of lectures; and open and constructive dialogues on these issues, we should deliberate on ways to ensure that such incidents come to our attention and are both properly addressed and avoided, e.g.: - systems of confidential reporting via a student / mixed-composition body - strengthening student support strategies such as the personal tutor system - including codes of conduct that highlight expectations for classroom behavior - annual or mid-semester surveys of student satisfaction and/or classroom climate
FACULTY CLIMATE	The relevance of safety and belonging goes beyond the walls of the classroom. Indeed, the faculty should aim to achieve a general sense of safety on premise and grant all students, regardless of educational, dispositional, circumstantial, or cultural background, a sense of belonging on campus.	Sense of safety and belonging of students can be stimulated, e.g., through: - yearly lectures on subjects reflecting a range of cultures and global issues - setting aside an annual diversity day[18] - screening thought-provoking documentaries followed by guided discussion - annual or mid-semester surveys of student satisfaction and/or faculty climate - regular monitoring of the diversity policy within the faculty

3. TECHNOLOGY

As much as ecological changes and a diversification of communities are having an impact on our society and on our legal system, technology developments are increasingly influencing the way our society functions. After the internet revolution that has taken place during the last two decades, further development of, for example artificial intelligence, Blockchain and cryptocurrencies, will likely have implications on most legal disciplines. Benkler points how the nature of innovation in this fields profoundly shifts the way law is organized.[19] Thus, the question is how to address the issues of

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[18] See the recent example of Leiden University, where on 22 November 2017 the symposium 'How inclusion makes diversity work' was held, and where inspiration from outside and best practices from inside the university were shared, centering around the question how Leiden can 'become an inclusive university where everyone will feel at home and can develop their talents to the full'?

[19] Yochai Benkler, Law, Innovation and Collaboration in Networked Economy and Society 13 Ann. Rev. L. & Soc. Sci.

developments in technology in our legal curriculum and in our teaching methods? To our knowledge, for this challenge, no educational competences framework has been developed yet.

III. **Outstanding challenges for the overall curriculum**

The key societal challenges that we have identified can only partly be overcome within our own teaching. They require changes in the overall law curriculum (in Dutch and in English). Integrating abovementioned substantive issues across the whole curriculum creates the opportunity to become a leading law faculty on sustainable development and inclusion compared to other Belgian or European law faculties. We therefore look forward to discuss with all colleagues what has been done already on these issues in the faculty, and how we can prepare students to address abovementioned challenges from a critical and contextualised legal disciplinary perspective.

Antwerp, 20 December 2017

References

- On sustainability education: http://www.celt.mmu.ac.uk/esd/index.php?section=esd
- On inclusive higher education and diversity: https://www.cte.cornell.edu/teaching-ideas/designing-your-course/incorporating-diversity.html