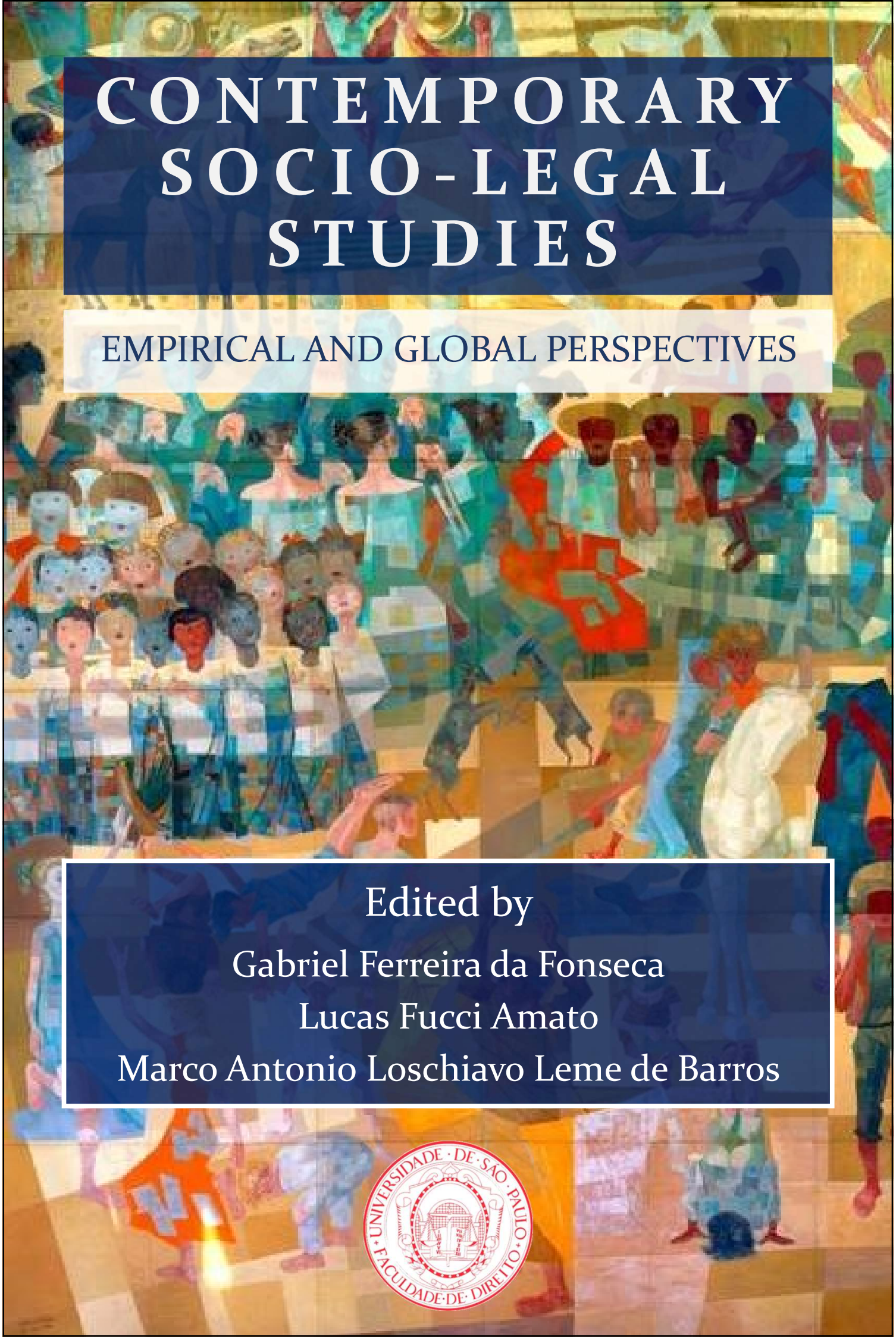

CONTEMPORARY SOCIO-LEGAL STUDIES

EMPIRICAL AND GLOBAL PERSPECTIVES

Edited by
Gabriel Ferreira da Fonseca
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Faculdade de Direito
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CONTENTS

19. *Advocacia Popular* (People's Lawyering) and Transnational Legal Activism: Conceptual Contours in Light of the Epistemologies of the South[148]

Cecília MacDowell Santos

Flávia Carlet

1. Introduction

Several social organizations and movements in Brazil and Latin America have mobilized the law and justice systems at the local, national, and international levels as part of their strategies of social struggle. In recent years, various socio-legal studies on the subject have been developed. However, we observe a conceptual confusion regarding different legal and political practices of legal mobilization. The terms 'public interest lawyering' and 'strategic litigation' are commonly confused in the literature with practices of '*advocacia popular* (people´s lawyering)' and 'transnational legal activism'. We are concerned about the lack of clear criteria in the application of a concept to designate different practices. With respect to people´s lawyering, the literature has not paid sufficient attention to its interface with transnational legal activism. Moreover, the literature generally focuses on the strategies and impacts of legal mobilization, neglecting the epistemological dimension of struggles for justice. It thus fails to address the construction of knowledge about rights within these struggles and the unequal power relations among different epistemic

[148] Translated by Lucas Fucci Amato and revised by the authors. Originally published in (2020) Cunha, JR (ed), *Teorias Críticas e Crítica do Direito I* (Rio de Janeiro, Lumen Juris). Besides revising the English translation, the authors made minor editing revisions and bibliographical updates on the original text. A preliminary version of this text was presented in the session 'The challenges of global justice and the Epistemologies of the South: Opening the socio-legal canon to invisible knowledges', organized by Cecília MacDowell Santos and Sara Araújo, at the Congress 'Linking generations for global justice', Oñati International Institute for the Sociology of Law, Spain, June 19-21, 2019 (Santos and Carlet 2019).

communities (for exceptions, see Aragón Andrade, 2019a, 2019b, Carlet 2019, C. Santos 2018).

In this chapter, we propose to delimit and deepen the conceptual contours of people´s lawyering and transnational legal activism. Based on our research trajectories engaged in the sociology of law and the field of human rights, we are interested in contributing to a conceptual reflection on people´s lawyering and transnational legal activism, seeking to understand the specificities of these practices, as well as the forms and contexts in which they intersect. Furthermore, we are interested in understanding these practices in the light of the Epistemologies of the South framework proposed by Boaventura de Sousa Santos (2014).

The founding categories of the Epistemologies of the South, especially the 'ecology of knowledges' and 'intercultural translation', help us to clarify the conceptual confusion and omission that we have identified in the literature, allowing us to establish more precise criteria to distinguish and refine the conceptual contours of people´s lawyering and transnational legal activism, and, consequently, of other practices of legal mobilization aimed at legal, political, and social change. The metaphor of the ecology of knowledges sheds light on the plurality of experiences and legal and extra-legal knowledges, constructed by social struggles in different epistemic communities. Intercultural translation serves to distinguish legal practices based on dialogical and horizontal constructions of legal and extra-legal knowledges.

We include here a biographical note on each co-author to explain how our research has served as a source for this chapter. The first co-author, Cecília MacDowell Santos, has dedicated herself, since 2006, to the study of transnational legal activism, a term she coined to account for the practices of non-governmental organizations (NGOs), social movement actors, and victims/survivors of human rights violations who brought complaints against the state of Brazil to the Inter-American Commission of Human Rights (C. Santos 2007). Based on semi-structured interviews with various actors of civil society and the Brazilian state, observation in hearings, and participation in events organized by these actors, as

well as archival research on legal documents and reports of the Inter-American Commission on Human Rights (IACHR), Cecília Santos has published a series of papers and book chapters on cases related to the themes of domestic violence against women (Márcia Leopoldi and Maria da Penha cases), discrimination against black women (Simone Diniz case), political memory of the dictatorship (Guerrilha do Araguaia case), and violence against indigenous peoples (Xucuru case) (see, for example, C. Santos 2007, 2009, 2016, 2018). Between 2011 and 2016, she was part of the 'ALICE – Strange Mirrors, Unsuspected Lessons' project team, coordinated by Boaventura de Sousa Santos at the Centre for Social Studies at the University of Coimbra.

Flávia Carlet was a people's lawyer of the National Movement of Small Farmers. Since 2003, she has participated in the National Network of People's Lawyers (Rede Nacional de Advogados e Advogadas Populares - RENAP). For the last fourteen years, she has dedicated herself to the theoretical and empirical study of people's lawyering in Brazil, using the methods of participant observation, ethnography, and in-depth interviews with people's lawyers, *quilombola* communities[149], and rural social movements (see, for example, Carlet 2010, 2013, 2015, 2016). Her Ph.D. dissertation analyzed the experience of two non-governmental organizations focused on the defense of the collective rights of *quilombola* communities in Brazil and Ecuador (Carlet 2019). Based on the theoretical proposal of the Epistemologies of the South and on extensive fieldwork, she compared the practice of people's lawyering and public interest lawyering with respect to their work pedagogy and their relationship with the communities they serve. From 2018 to 2022, she was a member of the research project 'El Diálogo de Saberes y las Prácticas Jurídicas Militantes en América Latina', based at the Universidad Nacional Autónoma de México and coordinated by Orlando Aragón Andrade. The first co-author was also a member of this project.

[149] A *quilombola* community is composed of descendants from the black African population that was trafficked and enslaved in Brazil during colonial times and until the abolition of slavery in 1888.

In our research, we found specific characteristics of people´s lawyering and transnational legal activism that do not fit entirely into the concepts of public interest lawyering and strategic litigation, although they may be similar (in some respects) to these forms of legal mobilization. We also noticed specificities and intersections between the practices of people´s lawyering and transnational legal activism.

We argue that the specificities of people´s lawyering and transnational legal activism refer to the scales of action and the methodology of the use of law in the face of social struggles and marginalized groups. People´s lawyering generally operates at the local and national levels. Transnational legal activism refers to the use of law beyond the borders of the nation-state. Moreover, the methodology of people´s lawyering is distinct from that carried out by other forms of legal mobilization. It is a methodology constructed 'with' (not only 'for') communities and social movements, performing a cross-cultural translation between state and non-state legal practices and knowledges. Transnational legal activism is not characterized by this methodology, but it has the potential to include it if it is practiced in partnership with people´s lawyering. One of the challenges facing transnational legal activism, from the perspective of the Epistemologies of the South, is to promote the translation of legal knowledges between state and non-state actors, both locally and at the international scale of legal mobilization. Thus, depending on the degree of translation of mobilized legal knowledges, social movement actors can use the law not only to promote social justice, but also cognitive justice.

This chapter is divided in three parts, besides this Introduction. The first part addresses the concepts that we identified in the literature on different practices of legal mobilization aimed at legal, political, and social change. In the second part, we delve into the concepts of people´s lawyering and transnational legal activism in the light of the Epistemologies of the South, discussing these concepts as we applied them to three case studies. Finally, we present our main conclusions.

2. Legal mobilization practices: confusions and conceptual contours

In this section, we address four forms of legal mobilization referred to in the literature on the topic in Brazil and Latin America: public interest lawyering, strategic litigation, transnational legal activism, and people´s lawyering,. We do not intend to conduct a thorough review of the literature, but rather to demarcate the conceptual contours of legal mobilization practices that seek to promote legal, political, and social change.

We consider that these practices correspond to the broader category designated in the North American literature as 'legal mobilization'. It is not our purpose here to refer to the vast literature on the theme in the United States. But we build on it to point out that, from a broad socio-legal perspective and in line with Michael McCann (2008), legal mobilization can occur inside and/or outside the courts, through the initiative of state and non-governmental actors, in favor of individual and/or collective rights. It can also be guided by a liberal-individualistic and Eurocentric model of advocacy, hegemonic in capitalist and colonized societies. Or it can be practiced in an alternative way, as illustrated by the modalities of legal mobilization examined in the second part of this chapter.

2.1. Public interest lawyering

The origin of public interest lawyering dates to the 1960s in the United States, when a segment of legal professionals, dissatisfied with the situation of social inequality in the country, began to act either on behalf of poor citizens who could not access the justice system, or in support of social groups that sought to expand political gains through legal means (Sá e Silva 2015). Although it constitutes a North American experience, the term has been exported to the contexts of Latin America, Africa, Asia, and Eastern Europe, through a process of wide institutional propagation (Sá e Silva 2015).

In the Latin American region, this type of advocacy expanded in the 1990s to designate the practices of public interest legal clinics developed in law schools,

which – influenced by the U.S. legal clinics – used strategic litigation on human rights and public interest issues, such as the environment, indigenous rights, and the rights of migrants (Coral-Díaz *et al.* 2010). Since then, the concept has been adopted in the region to comprehensively designate a variety of experiences of legal mobilization in defense of individual and collective rights, which are distinct from so-called traditional lawyering and North American public interest lawyering.

We noticed, however, a profusion and confusion of concepts of public interest lawyering, as well as divergences as to its greater or lesser scope in relation to various legal practices. In the 1980s, Joaquim Falcão (1986) identified the specificities of the North American public interest lawyering, arguing that it should not be confused with the experience of legal services that he considered innovative in the Latin American context. Opting not to use the term, the author points out that public interest lawyering in the United States included lawyers whose professional profile was characterized by technical-legal training coming from law schools, and whose goal was to improve the functioning of the Judiciary and enforce the legislation. The 'innovative advocacy' in Latin America, on the other hand, was exercised by a profile of lawyers that transcended technical training due to their political-militant engagement, directed at defending the rights of socially and economically disadvantaged people, with the goal of transforming the structure of the Judiciary and the laws in force in favor of their claims (Falcão 1986: 17-19).

More recently, Fábio Sá e Silva (2012, 2015) also identified differences between public interest lawyering practices in the United States and in Latin America. But he kept the same designation for the two contexts. In his comparative analysis, he found that U.S. public interest lawyering supports social groups and individualized demands, using litigation as a significant component of its practice (although it also mobilizes education strategies and media campaigns). In Latin America, he found that public interest lawyering advises a 'larger scale clientele' (groups, communities, and social movements) and has as its main method 'impact litigation' in the domestic and international

spheres, 'always in close connection with non-legal strategies' (Sá e Silva 2015: 332-334).

Some authors define public interest lawyering as a practice exercised through law firms that provide free legal advice to individual cases and legal clinics in law schools (Rekosh *et al.* 2001). Also included in this category are human rights NGOs 'with preferential action of the advocacy or strategic litigation type focusing on the constitutional jurisdiction of the Supreme Court and international human rights bodies' (Almeida and Noronha 2015: 22).

The concept of public interest lawyering has also been used to frame people´s lawyering, concealing the specificities of the latter, as exemplified by the research entitled 'Public Interest Lawyering in Brazil', developed by the Brazilian Center for Analysis and Planning (CEBRAP) for the Secretariat for Judicial Reform (SRJ) of the Ministry of Justice (SRJ 2013).[150] For this study, public interest lawyering encompasses the experiences of civil society in defense of human rights, such as people´s lawyering, university extension programs at law schools, human rights NGOs, and *´promotoras legais populares'* (people's legal female advocates), in addition to the state's litigation bodies, such as the Public Prosecutor's Office and the Public Defender's Office. These experiences are considered expressions of public interest lawyering to the extent that '[...] they converge with respect to the target audience (low-income population, minority or discriminated social groups, and diffuse interests, for example), the thematic agenda (defense of certain rights), the ultimate goal (to promote social transformation), and the work method (client or issue-oriented, strategic litigation, etc.)' (SRJ 2013: 13).

Contrary to such generalization, a narrower conception of public interest lawyering clearly distinguishes it from people´s lawyering (Assis 2021, Carlet 2019, Manzo 2016). According to Mariana Manzo (2016), some of the aspects that

[150] The research was supported by the Secretariat for Judicial Reform, the United Nations Development Program, and the Brazilian Center for Analysis and Planning. It was conducted by the following team: José Rodrigo Rodriguez (coordinator), Evorah Cardoso, Fabíola Fanti, and Iagê Zendron Miola. The results of this research were also published in Cardoso, Fanti and Miola (2013).

differentiate the two modalities consist in the place that law and politics occupy in the practice of law, as well as the degree of engagement of the lawyers in relation to the causes in which they act. In public interest lawyering, the law plays a central role, so that greater emphasis is placed on judicial strategies – namely, strategic litigation – and strategies related to state institutions. In people´s lawyering, on the other hand, the use of legal strategies is combined with a broader political and social mobilization. Moreover, although public interest lawyers also represent marginalized social groups, they do not always participate or are directly engaged in their struggles, as people´s lawyers do (Manzo 2016).

Similarly, Mariana Prandini Assis (2021) states that people´s lawyering and public interest lawyering inhabit the legal field differently. First, they have different historical origins. While public interest lawyering is a transposition of a U.S. model to newly re-established southern democracies, people's lawyering is closely connected with the emergence of various social movements during the re-democratization in the 1980s (Assis 2021). They also establish different types of relationship with the individuals or groups they assist. Public interest lawyering reproduces a vertical and hierarchical relationship, whereas people's lawyering establishes a horizontal and dialogical relationship (Assis 2021).

Flávia Carlet (2019) adds that the pedagogy of work adopted 'with', and not 'for', the groups advised substantially demarcates the differences between people´s lawyers and public interest lawyers. People´s lawyers closely follow the struggle of the social movements and marginalized groups that they advocate for, valuing their knowledge, autonomy, and political decisions on legal and extra-legal strategies. In contrast, public interest lawyers are mainly focused on their own legal knowledge, and their legal strategies are normally not discussed and defined with the groups they advocate for (Carlet 2019).

2.2. Strategic litigation

Strategic litigation is a type of legal mobilization carried out by organizations and social groups that are active in the defense of human rights, by choosing cases that are considered paradigmatic and bringing them before the courts. This type of litigation – also called impact litigation – has as its main purpose '[...] to draw attention to human rights abuses and violations and to highlight the obligation of the State to comply with its national and international obligations' (Carvalho and Baker 2014: 467).

The purpose of achieving a high public impact can result from acting within different institutional fields: in the Judiciary, to obtain a sentence that directly compensates victims of human rights violations or prevents violations of human rights; in the Executive, to achieve public policies that help solve a case; and in the Legislative, to promote legislative changes on certain issues, such as women's rights, environmental law, and combating racial discrimination (Cardoso 2012, Cels 2008, Correa Montoya 2008, Duque 2014).

Strategic litigation includes the following essential procedures: (1) prior choice of cases considered paradigmatic, since they will be the tools to obtain the desired impact; (2) definition of the goals that one wants to achieve or of the advancements one wants to foster; and (3) bringing these cases to court (combined or not with political and social strategies). The selection of cases, as a rule, corresponds 'to the interests and agenda of the entity responsible for the litigation' and follows a strategic plan, with judicial and non-judicial techniques (Cardoso 2011: 367).

Strategic litigation can be conducted through the judicialization of cases at the national level, in domestic courts, or at the international level, before international human rights bodies. This type of litigation represents the main method used by public interest lawyers in Latin America, as they act primarily within state institutions and through the judicialization of cases, resulting in the prominence of legal and judicial strategy over social and political strategies (Manzo 2016). The goal is to generate transformative legal and judicial

precedents and make visible the social problems ignored by the justice system (Sá e Silva 2015).

Evorah Cardoso (2019) distinguishes strategic litigation from other legal practices based on what the author calls 'global agenda' and 'native practices,' considering the types of actors and the methods of each advocacy. The author includes in the global agenda the strategic litigation method, defined as issue or cause-oriented, practiced by human rights NGOs and legal clinics within universities. She also includes in this 'global agenda' *pro bono* lawyering, carried out by corporate law firms. Regarding 'native practices', the methods and social actors are the following: people´s lawyering, carried out by networks and groups of people´s lawyers and legal consultancies available at universities; free legal advice, carried out by legal programs at universities; legal aid, practiced by the Brazilian Bar Association (Ordem dos Advogados do Brasil, OAB), Public Prosecutor's Office, and Public Defenders' Offices.

In our view, this classification has the merit of distinguishing practices that are usually confused and amalgamated in the concept of public interest lawyering. Furthermore, it demarcates the difference between the legal practices of professionalized NGOs and people´s lawyering. However, the criterion of 'global agenda' *versus* 'native practices' seems mistaken to us, ignoring the historical background of public interest lawyering in Brazil and in Latin America, where one cannot separate the 'global' from the 'native'. The experience of strategic litigation, in turn, is not necessarily international. The terms 'global agenda' and 'native practices' denote a rigid separation between the global and the local, concealing the relationship between the two scales and the alliances created between different actors in the transnational and trans-local practices of legal mobilization. The actors are not static; they can change their legal strategies over time. As we have argued in this chapter, scales and methodologies of lawyering are key criteria for conceptualizing specific legal mobilization practices. But scales are not to be confused with 'global' or 'native' agendas. They refer to the levels of action at local, national, and international social and institutional spaces. The methodology criterion concerns the ways in which

different actors relate to each other and the knowledge they build in the process of mobilizing the law.

The Latin American literature often focuses on the use of strategic litigation in the international arena, especially within the Inter-American Human Rights System (IAHRS) of the Organization of American States (OAS) (see, *e.g.*, Cardoso 2012, Carvalho and Baker 2014, Duque 2014). Some international NGOs active in Latin America and the Caribbean, such as the Center for Justice and International Law (CEJIL), specialize in the practice of strategic litigation on an international scale, bringing paradigmatic cases of human rights violations to the IAHRS and mobilizing United Nations (UN) human rights bodies. CEJIL was founded in 1991 by a group of Latin American human rights defenders, with the goal of using international law and the IAHRS for the protection of human rights in the region. CEJIL has offices in several countries in Latin America.

In Brazil, in addition to CEJIL, the NGO Justiça Global (Global Justice), founded in 1999, specializes in strategic litigation at the national and international scales, also working in the areas of research, communication, and training for human rights defenders. The Gabinete de Assessoria Jurídica às Organizações Populares (GAJOP, Cabinet for Legal Consultancy to People's Organizations), an NGO founded in 1981 and headquartered in the city of Recife, created in 1998 a program specifically geared towards the mobilization of human rights at the international scale, using strategic litigation before the IAHRS and activating the UN through denunciations and campaigns (C. Santos 2007).

According to Par Engstrom and Peter Low (2019), CEJIL, followed by Justiça Global, are the two NGOs with the largest number of cases filed against the state of Brazil before the IAHRS between 1999 and 2014. In her research on cases concerning 'women's human rights,' Cecília Santos also noted that CEJIL appears as one of the petitioners in five of the ten cases against the state of Brazil identified by the author in the annual reports of the Inter-American Commission

on Human Rights (IACHR), published between 1969 and 2017.[151] Justiça Global was a partner with other NGOs in three cases concerning women's human rights.

The Latin American and Caribbean Committee for the Defense of Women's Rights (Comitê Latino-Americano e do Caribe para a Defesa dos Direitos da Mulher, CLADEM), a transnational and regional feminist network founded in 1993 with offices in several countries, has specialized in the use of strategic litigation, although it is not restricted to such a strategy of human rights mobilization. Cecília Santos identified three cases on women's human rights presented by CLADEM against the state of Brazil before the IACHR: the first in collaboration with CEJIL and one of the victims; the second together with the União de Mulheres de São (hereafter, União de Mulheres), a grassroots feminist organization created in the city of São Paulo in 1981; and the third in partnership with Themis – Gender, Justice and Human Rights, a feminist NGO created in Porto Alegre in 1993, and together with the Latin American feminist network Católicas pelo Direito de Decidir (Catholics for the Right to Choose), whose representation in Brazil is based in São Paulo. Themis presented a case on women's human rights before the IACHR, but without the participation of other NGOs. Geledés-Instituto da Mulher Negra, an NGO of black women created in 1988 in the city of São Paulo, with the objective of promoting the rights of women and blacks, fighting against forms of discrimination resulting from racism and sexism, presented a case before the IACHR, but without the participation of other NGOs. Finally, GAJOP presented a case on women's human rights, in partnership with the National Human Rights Movement, the Pastoral Land Commission, and the Margarida Alves Foundation for the Defense of Human Rights.

[151] Cecília Santos (2018) lists seven of these cases and analyzes two in her paper on the mobilization of women's human rights and cases against the state of Brazil presented to the IACHR.

2.3. Transnational legal activism

Transnational legal activism consists of a form of legal and political mobilization carried out by NGOs, social movements, marginalized social groups, and/or victims/survivors of human rights violations, among other civil society actors.[152] These actors constitute punctual networks for legal mobilization with the aim of protecting and promoting human rights, using international instances and mechanisms, such as the IACHR. For Cecília Santos, who defined the term in her article published in *Sur* journal in 2007, 'transnational legal activism' manifests itself when different social actors and grassroots organizations engaged in favor of human rights, whether local or international, make use of legal-political strategies at different scales of legality (local, national, and international). The objectives are varied: to bring about legal change and to pressure states to comply with or adopt domestic and international human rights standards and norms; to promote judicial precedents; to strengthen a cause and/or social movements; to recognize and repair the rights of victims/survivors (C. Santos 2007). From this perspective, transnational legal activism is broader than strategic litigation.

Cecília Santos (2007) formulated the concept of transnational legal activism to account for the increasing globalization of law and human rights, as well as the transnationalization of social and juridical-political struggles since the 1990s. The author was inspired, on the one hand, by the concept of 'transnational advocacy networks', as formulated by Margaret Keck and Kathryn Sikkink (1998). In this sense, transnational legal activism is characterized by '[...] the transnational dimension of alliances and networks formed by NGOs, social movement actors, and grassroots organizations engaged in human rights activism' (C. Santos 2007: 32). Furthermore, the concept of transnational legal activism is inspired by the 'law and globalization from below' approach proposed by Boaventura de Sousa Santos and César Rodríguez-Garavito (2005).

[152] Sectors of the state, such as public defenders, can and have also participated in transnational legal activism within the Inter-American System of Human Rights.

In this perspective, the counter-hegemonic use of law in a context of globalization, or what the authors call 'subaltern cosmopolitan legality,' requires the combination of legal and political mobilization, the connection between scales of mobilization (local, national, and international), and the emphasis on collective rights. Indeed, transnational legal activism connects different actors and scales of legal-political action across local, national, and international levels. Different actors may or may not prioritize political and non-judicial mobilizations of law, not necessarily restricted to litigation. The way the actors relate to each other, as well as to the knowledge constructed in their mobilizations is what will indicate whether transnational legal activism corresponds to a counter-hegemonic use of law.

In summary, transnational legal activism integrates three main characteristics: (1) a specific profile of social actors, that is, activists engaged in social, legal, and political struggles; (2) the local, national, and international scales that permeate the articulation between these actors; and (3) a strategy more or less based on a combination of legal and political practices of legal mobilization at a transnational level, with the aim of recognizing and promoting human rights (C. Santos 2007).

In Latin America, transnational legal activism has emerged as a strategy for acting on behalf of human rights, to the extent that international networks of lawyers and local non-governmental organizations have been formed with the aim of expanding their field of expertise within the international human rights bodies (López Pacheco and Hincapié Jiménez 2017). In the 1970s and 1980s, recourse to international forums for denunciations of torture and arbitrary imprisonment was used by various entities and collectives as an alternative to the closure of the state throughout the dictatorial periods (Engelmann 2006: 126).

However, only after the period of political re-democratization has there been a greater increase in the use of international institutions by human rights organizations in Latin America. In Colombia, this occurred in the early 1990s with the creation and expansion of organizations specialized in transnational legal activism, whereas in Mexico, in the late 1980s, NGOs specialized in strategic

litigation and political pressure began to interact with international organizations (López Pacheco and Hincapié Jiménez 2017). In Brazil, 'internationalized NGOs' in defense of collective causes expanded in the 1990s, in the context of a process of diversification of the public space and new uses of law (Engelmann 2006).

One of the challenges of transnational legal activism has to do with the limited compliance with international human rights norms by states and their judicial systems. There is a double perception on the part of several NGOs, social movements and marginalized social groups about the use of international bodies: on the one hand, they consider the visibility that the demands achieve through the use of international channels to be positive; on the other hand, they evaluate as negative the effectiveness of these bodies, either because of the slowness in processing complaints or because of the low degree of enforcement of their sanctions before the state (Gediel *et al.* 2012: 62). Despite these challenges, transnational legal activism has already had some positive impacts and political advances. In the Brazilian context, for example, the Maria da Penha case is considered an example of a positive impact of transnational legal activism in the context of the IACHR. This case contributed to the subsequent elaboration of norms and public policies aimed at confronting domestic violence against women, such as the enactment of Law No. 11,340/2006 (Barrozo 2017, C. Santos 2010, 2018).

Despite the increasing use of international legal instruments by human rights NGOs (local and international), some authors consider that transnational legal activism has been overlooked by most of the socio-legal literature in Latin America. As López Pacheco and Hincapié Jiménez (2017: 10) explain, it is a legal practice still considered recent in many countries in the Latin American region, namely because 'only a few years ago was it possible to strengthen the mechanisms of the inter-American human rights system to make its capacity to protect human rights in the hemisphere more effective.'

Concerning the studies on transnational legal activism in the context of Brazil and Latin America, we highlight, among others, those related to the issue of violence against women (García-Del Moral 2015, Hernández Castillo 2016, C.

Santos 2018); the right to territory of indigenous peoples and *quilombola* communities (Hernández Castillo 2016, Luz 2018, Rodríguez-Garavito and Arenas 2005, C. Santos 2016); as well as the right to memory and truth and transitional justice (Delarisse and Ferreira 2018, C. Santos 2009). These themes are analyzed, in general, under two focuses: (1) concept, characteristics, and strategies of transnational legal activism (Barrozo and Ferreira 2018, García-Del Moral 2015, López Pacheco and Hincapié Jiménez 2017, C. Santos 2007); and (2) advances, challenges, and impacts on the protection and enforceability of human rights (Barrozo 2017, Doin and Sousa 2009, Engstrom and Low 2019, Lima and Alves 2013, Luz 2018).

There is, however, a lack of studies that pay attention to the epistemological dimension of transnational legal activism, as well as of the other modalities of legal mobilization examined in this chapter. As we will address below, the works of Cecília Santos (2018) and Flávia Carlet (2019) are exceptions for incorporating the Epistemologies of the South framework in their respective analyses of transnational legal activism and people´s lawyering.

2.4. *Advocacia popular* (People´s lawyering)

People´s lawyering (*advocacia popular)* constitutes a particular segment of the professional field of Brazilian law. It is a legal practice that is politically engaged in the social struggles and demands of social movements and organized groups, conceiving the legal profession in much broader terms than traditional lawyering. Different experiences preceded and influenced the emergence of lawyers committed to the defense of social struggles. In the second half of the 19th century, abolitionist lawyers filed numerous freedom suits on behalf of enslaved people, such as the lawyer Luiz Gama, himself an enslaved man for most of his life, who used the law as his main weapon in his struggle to destabilize the policy of lordly domination and to undermine slaveholding ideology (Azevedo 2010). Between 1950 and 1960, the lawyer Francisco Julião defended the peasant leagues in the northeastern region of Brazil, becoming the 'lawyer of lost causes.' In the

decades from the 1960s until the 1980s, a period marked by the Brazilian civil-military dictatorship, progressive lawyers engaged in the defense of political prisoners and persecuted people, using the law to fight against the abuse of rights and violations of democratic freedoms practiced by the state.

Since the democratic transition in Brazil, groups and entities engaging with progressive legal work have emerged to train new lawyers and to advise unions and social movements on urban and rural demands for rights and justice.[153] In the context of the new democratic Constitution adopted in 1988, these initiatives stimulated a broad debate on the efficacy of social struggles within the judicial system and encouraged the use of the judicial channel as an alternative for the promotion of rights. In 1996, people's lawyers, who had already joined forces in defense of peasants in the struggle for agrarian reform, formed the National Network of People's Lawyers (Rede Nacional dos Advogados e Advogadas Populares, RENAP).[154]

In the last three decades a growing number of studies have emerged about the experience of people´s lawyering in Brazil. In general, these investigations state that, although there is no univocal concept about this legal practice, its main contours emphasize the target audience it advises, the objectives, the working methods, and the perceptions about law and the justice system.

People´s lawyering works primarily in causes of a collective nature, serving the demands for rights that come from organized grassroots actors, such as urban and rural communities and social movements (Alfonsin 2013, Junqueira 2002, Martins 2016, Sá e Silva 2011). People's lawyering is motivated by the commitment to strengthen and support the struggles of these groups, based on a

[153] Examples of these initiatives are the National Association of People's Lawyers (Associação Nacional dos Advogados Populares - ANAP), created in 1980; the Office of Legal Assistance to People's Organizations (Gabinete de Assessoria Jurídica às Organizações Populares - GAJOP), 1981; the Association of Lawyers of Rural Workers in the State of Bahia (Associação de Advogados de Trabalhadores Rurais no Estado da Bahia - AATR), 1982; and the Institute of Grassroots Legal Support Institute (Instituto de Apoio Jurídico Popular - IAJUP),1987.

[154] RENAP is today one of the most recognized and consolidated organizations in the practice of people's lawyering in Brazil, celebrating 28 years of operation in 2023. However, it was not the first group of lawyers created nationwide to defend social movements. Its predecessor was the National Association of People´s Lawyers (Associação Nacional de Advogados Populares - ANAP), created in 1980 (Tavares 2007).

political-ideological identification with their causes. In this sense, it follows an educational and pedagogical work methodology (Pazello, 2016) based on the collective construction of legal and political strategies, including a dialogue between technical legal knowledge and social movements knowledge, in a sharing of experiences and expectations, reflected in a work 'with' and not 'for' the assisted groups (Alfonsin 2013, Carlet 2019, Pivato 2010). Its actions are guided by a close relationship with the groups it advises, seeking to respect their autonomy and protagonist role in the struggles that such groups undertake. As Aragón Andrade (2019a, 2019b) warns, the challenge of people´s lawyers is precisely to legally advise the claims of communities and social movements, without appropriating their protagonist role, nor demobilizing their community struggle process.

People´s lawyering makes a strong criticism of the legal system, perceived as a conservative and authoritarian instrument that reinforces the *status quo* and maintains social injustices (Junqueira 2002). On the other hand, it does not despise the use of the legal and judicial system, insofar as this is combined with broader political strategies mobilized by the groups it advises. It also provides legal services that involve ´grassroots education workshops', legal guidance, denunciations, mediation, negotiation with the executive and legislative branches of the state, opinions, and advocacy campaigns (Pivato 2010, Ribas 2009).

In its day-to-day (judicial and extrajudicial) activities, people´s lawyering is carried out mainly at local and national scales. In some specific demands, it is articulated with transnational legal activism, preparing opinions, complaints, and petitions sent to international courts. Some examples are the cases of the *quilombola* community of Marambaia Island and the Xucuru indigenous people, whose complaints to the Inter-American Commission on Human Rights (IACHR) were prepared by NGOs specialized in international litigation with the support of people´s lawyers.

In the literature, there are references to the use of strategic litigation by people´s lawyering (Gomes, Sousa and Pereira 2013). The term has also been used

by some NGOs and collectives that adopt people´s lawyering as an action strategy. In this sense, some studies have alerted to the fact that strategic litigation has been increasingly cited in people´s lawyering publications, interviews, and workshops (Assis 2021). Although strategic litigation has relevance in the legal work of many NGOs committed to the struggle for human rights, the approach to people´s lawyering should be done with caution. This is because, as a rule, the provision of people´s lawyering services does not work based on the criterion of a preliminary choice of paradigmatic cases, as occurs with strategic litigation, but rather on the attendance of a diverse flow of demands waiting for an urgent solution (Carlet 2019). Moreover, many of the cases accompanied by people´s lawyers demand a defensive and not provocative performance from the courts, so that litigation is not always the priority strategy (Carlet 2019). Another important difference is the role that social movements and lawyers play in legal mobilization. In the practice of people's lawyering, social movements play a central role in this mobilization, being the protagonists of political and legal transformations (Assis 2021). In turn, from the perspective of strategic litigation, lawyers play the main role, being the drivers of social transformation projects, while social movements have a secondary role in this process (Assis 2021).

In addition to the distinction between people´s lawyering and strategic litigation, some studies have emphasized the relationship between people´s lawyering and public interest lawyering. The literature has been positioned on two opposing sides. The first understands the experience of people´s lawyering as a practice belonging to the field of public interest lawyering (SRJ 2013, Cardoso *et al.* 2013). The second argues that people´s lawyering should not be understood among the variety of experiences of public interest lawyering (Assis 2021, Carlet 2019, Manzo 2016, Vériz 2014). As we explained above in the item 2.1, although they may present elements in common, the differences between such practices are more prominent than the similarities, especially regarding the degree of engagement in relation to the causes in which they act, the role that law and

politics occupy within their practices, and the pedagogy of work adopted with the groups they advise.

3. Transnational legal activism and people´s lawyering in the light of the Epistemologies of the South

Having examined the conceptual contours of the different modalities of mobilization of the law, we turn our attention to transnational legal activism and people´s lawyering in the light of the Epistemologies of the South framework. Our goal is to highlight the elements that differentiate and bring them together, namely with respect to the relations between the actors and the knowledge they construct in the process of mobilizing the law, as well as the potentialities and challenges for promoting cognitive justice. This framework sheds light on the epistemic dimension of legal practices and on the construction of cognitive justice as a constitutive element of social justice. We restrict ourselves to the practices of transnational legal activism and people´s lawyering for illustrative purposes, and because they have been the subject of our respective research.

3.1. Foundations of the Epistemologies of the South

The theoretical proposal of the Epistemologies of the South, as formulated by Boaventura de Sousa Santos (2014), challenges the paradigm of modern rationality (including modern law and human rights) and its belief in a universally valid knowledge, seeking an alternative paradigm in the experiences, practices, and knowledges of the South (B. S. Santos 2014). The South, as the author argues, should not be understood in a geographical sense, in opposition to the global North, but as a metaphor to characterize social spaces of oppression, marked by historical systems of domination, such as capitalism, colonialism, and heteropatriarchy, which produce inequalities of class, race, gender, among other social categories. In spaces of oppression, there are collective knowledges and practices emerging from various social and political struggles, knowledges that

are, in turn, unknown, despised, and constructed as non-existent by modern rationality, which guides the modern Western state and law (Meneses 2016a, 2016b, B. S. Santos 2014, 2018).

To uncover and validate those knowledges and practices despised by modern rationality, the Epistemologies of the South are based on three methodological contributions: the sociology of absences and emergences, the ecology of knowledges, and intercultural translation. The sociology of absences aims to identify the diversity of experiences in the world, and to demonstrate that everything that is believed not to exist is in fact constructed as non-existent by modern Western reason. The sociology of emergences seeks to identify and verify the viability of concrete alternatives that emerge from practices and knowledges made visible by the sociology of absences (B. S. Santos 2014).

The research method that underlies the sociology of absences and emergences transcends conventional patterns, as it is based on an investigative stance engaged in the task of searching for and making visible historically silenced, albeit present, experiences, as well as highlighting the horizon of alternatives and the possibilities that emerge from them. As Maria Paula Meneses (2016a: 179) explains, the theoretical proposal of the Epistemologies of the South constitutes both a political and methodological project aimed at '[...] creating a plural and dynamic world of infinite cognitive possibilities, where the emphasis is centered on the translation of practices, struggles, and knowledges.'

To enable the sociology of absences and emergences to identify the diversity of experiences in the world and capture the alternatives they offer, it is necessary to uncover and understand these experiences, thus opening the field of intelligibility of practices and knowledges in the world. For this purpose, the Epistemologies of the South resort to the ecology of knowledges and intercultural translation. The central premise of the ecology of knowledges is that there is an infinite plurality of knowledges in the world. These knowledges, in turn, are not absolute. It is the recognition of the limits and incompleteness of each knowledge that produces the possibility of epistemological dialogue and inter-knowledge.

The ecology of knowledges does not intend to reproduce the dichotomous and hierarchical logic of the modern rational paradigm. In the ecology of knowledges, the credibility of non-scientific knowledge does not involve the discrediting of scientific knowledge. This, however, must be used in a counter-hegemonic manner (B. S. Santos 2014, 2018). In the process of inter-knowledge, all knowledges should have legitimacy to participate in epistemological debates. However, it is important to pay attention to how the different knowledges relate to each other, that is, to the possibility that such interaction takes place in a fair and dialogical way. As Meneses (2016b: 29) states, the challenge of the ecology of knowledges is '[...] to guarantee equal opportunities to different knowledges in increasingly broader epistemological disputes, with the aim of maximizing the contribution of each of them in building a more democratic, just, and participatory society.'

Intercultural translation corresponds to the possibility of comparing different knowledges and creating mutual intelligibility between them (B. S. Santos 2014). In the proposal of the Epistemologies of the South, the ecology of knowledges and intercultural translation go together, since, in the face of the multiplicity of knowledges among social groups – with distinct cultures, languages, and conceptions of the world –, it is necessary to exercise intelligibility among them and their struggles. This is necessary to detect the aspects that separate them or that bring them together, and to determine the possibilities and limits of the articulation between their practices and knowledges (B. S. Santos 2014). The work of intercultural translation concerns both the knowledge and the practices of the agents in contact.

In the context of the struggles for economic, social, and cognitive justice in the South, intercultural translation presents itself as a procedure to create spaces of alliance, union, and articulation between social movements, organizations, and groups at local, national, or transnational scales. As Boaventura de Sousa Santos (2014) points out, intercultural translation is not only an intellectual and cultural procedure (translation between knowledges, cultures, and world

conceptions), but also a political procedure since it is aimed at collective action to face and overcome certain social problems.

Bringing the theoretical contributions of the Epistemologies of the South to the conceptual delimitation of distinct practices of legal mobilization, the question of recognition of the knowledges and practices of marginalized social actors and social movements that fight for rights must be highlighted. The sociology of absences and emergences contributes to the visibility of multiple practices and conceptions of law(s) and justice(s). The ecology of knowledges and intercultural translation also serve to map such practices and knowledges, shedding light on the relations between different epistemic communities that mobilize state law and human rights at local, national, and international scales.

Building on the Epistemologies of the South, we highlight the following aspects that bring together transnational legal activism and people´s lawyering: (1) they constitute present and active experiences in the field of legal practices that fight against oppressions resulting from colonialism, capitalism and heteropatriarchy; (2) they are legal practices that, although present and important in the scenario of struggles for rights, often become invisible in the socio-legal literature by the building of generalizing categories or terminologies – for example, the predominant conception of public interest lawyering obscures the specificities of people´s lawyering; and the concept of strategic international litigation is confused with transnational legal activism; (3) they are legal practices that are premised on networking with partner organizations, maximizing the possibility of solidarity and success in the legal-political struggles they undertake. Among the aspects that differentiate these two practices, we highlight the following elements: objectives; locus of action; scale of mobilization; relationship between actors; methodology of work; and construction of knowledge (see summary table below). Below, we examine these elements with examples from our respective case studies involving practices of legal mobilization.

3.2. Transnational legal activism and ecology of knowledges: the Márcia Leopoldi and Maria da Penha cases

As mentioned in section 2.3, transnational legal activism aims to pressure domestic institutions to (1) create and/or implement public policies, statutes, and international treaties; (2) transform case law at the national and international levels; (3) and/or support a cause or social movement. The locus of its work are the state and inter-state human rights organizations, through the mobilization of law at an international scale.

In her studies on transnational legal activism, Cecília Santos (2007, 2016, 2018) notes that this type of legal mobilization builds – and depends - on punctual networks and alliances among heterogeneous social actors. It generally brings together different types of NGOs, social movement actors, and individual or collective victims/survivors of human rights violations. While some NGOs are specialized in strategic litigation, others have experience in the field of advocacy and others are embedded in grassroots movements. In the process of transnational human rights mobilization, especially when it comes to denunciations of cases considered paradigmatic, the strategy of impact litigation is negotiated among actors, not all of whom share the same views and expectations regarding state law and state and international justice systems (C. Santos 2018).

The relationship between NGOs specializing in international strategic litigation and social groups and individuals who have suffered human rights violations tends to be mediated by grassroots organizations, popular movements, and/or people´s lawyering. In addition to physical distance and the relationship mediated by actors from grassroots organization and social movements, there is also a temporal limitation that is restricted to the time of litigation (Rodríguez-Garavito and Arenas 2005). The working methodology of professionalized NGOs is characterized by a 'vertical', 'top-down' transfer of knowledge, through activities and workshops for training in knowledge of international human rights law and the use of legal mechanisms to defend them.

In her analysis of the Márcia Leopoldi and Maria da Penha cases brought against the state of Brazil before the IACHR concerning domestic violence against women, Cecília Santos (2018) examines, from the Epistemologies of the South perspective, the knowledges and power relations that emerged from transnational legal activism carried out by different types of human rights and feminist NGOs, grassroots feminist organizations, as well as survivors of violence and/or their families.

Márcia Leopoldi, a young middle-class white woman, was murdered in 1984, in the city of Santos, by her ex-boyfriend José Antônio Brandão Lago, known as Laguinho. Deise Leopoldi, Márcia's only sister, fought for justice before the local courts and actively engaged in legal, political, and social mobilization around the case, with the support of the grassroots feminist organization União de Mulheres de São Paulo, to which Deise turned and became a member in the course of her struggle for justice. Thanks to feminist mobilizations undertaken by the União de Mulheres, Laguinho was convicted in a second trial by the Jury Court. However, the warrant for his arrest was not executed, because Laguinho fled. Deise Leopoldi and União de Mulheres carried out several types of mobilizations around the case, using it and giving it visibility in the campaign 'Impunity is an accomplice of Violence', organized by grassroots feminist organizations in São Paulo and Santos. Due to the continued impunity, the case was referred to the IACHR in 1996. The internationalization initiative began to be studied by União de Mulheres and CLADEM-Brazil in 1994, during the first course of '*promotoras legais populares*' (people's legal female advocates) that the União de Mulheres organized. The petition to denounce this case was signed by the following organizations: CEJIL, Human Rights Watch, CLADEM-Brazil, and União de Mulheres de São Paulo.[155]

In addition to seeking justice for the specific case, these organizations had the common goal of pressuring the Brazilian state to create mechanisms to prevent and combat domestic violence against women. At the international level,

[155] Human Rights Watch later dropped the case because its office in Brazil was closed.

they intended to innovate the case law on human rights by applying the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women, known as the Convention of Belém do Pará, adopted by the OAS in 1994 and ratified by the Brazilian state in 1995.

It is important to note that, unlike the Maria da Penha case, the Márcia Leopoldi case is little known, although it was the first case on women's human rights brought against the state of Brazil before the IACHR. The IACHR took a decade and a half to decide on the case. It only assigned it a number two years after receiving the complaint (Petition No. 11,996). And only in 2012 did the IACHR finally publish a report on the case, ruling it 'inadmissible.' The IACHR considered that the case had lost its legal object, since Laguinho had been arrested in 2005.

The Maria da Penha case is widely known in Brazil. In 1983, Maria da Penha Maia Fernandes, a white, middle-class resident of the city of Fortaleza, suffered two murder attempts by her then-husband Marco Antonio Heredia Viveros, becoming paraplegic as a result of the first aggression. Viveros was sentenced by the Jury to ten years in prison. However, he filed a series of appeals, and the case was only judged by the Superior Court of Justice in 2001, on the eve of the statute of limitations. Maria da Penha describes her long struggle for justice in her book, *Sobrevivi... Posso Contar* (Fernandes 1994), whose first edition was published in 1994 by the Ceará State Council on Women's Rights (Conselho Cearense dos Direitos da Mulher). A representative of CEJIL learned of the case through this Council on a visit to Fortaleza, and thus was born the punctual alliance between Maria da Penha, CEJIL, and CLADEM-Brazil, which referred the case to the IACHR in 1998. The IACHR published its admissibility and merits report in 2001, holding Brazil responsible for human rights violations and determining a series of measures for symbolic reparations and compensation for the victim, as well as legal changes and improvements in the justice system and in the women's police stations, among other measures. This paradigmatic case of domestic violence against women is considered successful by all parties involved in the transnational legal activism in question. It is also cited as an example of

strategic litigation with a positive impact, having contributed, as already mentioned in the previous section, to the creation of Law No. 11,340/2006, named as 'Maria da Penha Law' by then President Luiz Inácio Lula da Silva as a form of symbolic reparation to Maria da Penha, who was invited by the government to the solemn act of presidential signing of the law (C. Santos 2018, 2010, 2007).

In her comparative analysis on these two cases, Cecília Santos (2018) highlights the plurality of knowledges, mobilization strategies, and visions of justice within the scope of transnational legal activism. She argues that the knowledges and practices of popular feminist organizations (such as União de Mulheres de São Paulo, in the Márcia Leopoldi case) and of the survivors (Maria da Penha and Deise Leopoldi) were essential to the construction of each paradigmatic case. But the legal knowledge, mobilization strategies, and visions of justice of professionalized NGOs specialized in strategic litigation (such as CEJIL and CLADEM in both cases) tended to prevail in the process of international legal activism. The author notes that professionalized NGOs hold technical-legal knowledge that is fundamental to transnational legal activism. This knowledge has the potential to be mobilized for counter-hegemonic purposes, as in the Maria da Penha case.

However, when there was a conflict of visions of strategies and justice between the parties, as in the Márcia Leopoldi case, the strategy and technical-legal knowledge of CEJIL and CLADEM predominated, to the detriment of the knowledge and practices defended by the grassroots feminist organization União de Mulheres and by Deise Leopoldi. For CEJIL and CLADEM, the case had lost its legal object because of Laguinho's arrest. The chances of the IACHR publishing an admissibility report were minimal and this would mean a failed strategic litigation. For Deise Leopoldi and União de Mulheres, it was important to pressure the IACHR and use the case to expose the inefficiency of the Brazilian judicial system, even after the Maria da Penha Law was created. Holding the Brazilian state accountable for the delay in Laguinho's arrest was also a matter of symbolic reparation for Deise Leopoldi. As a form of denunciation and of

building the memory of violence, struggle, and injustice, Deise Leopoldi, with the support of União de Mulheres, published a book about the case, following the example of Maria da Penha (Leopoldi, Teles and Gonzaga 2007). The book was sent to the IACHR, despite the objections of CEJIL and CLADEM. This was the only women's human rights case, among seven cases cited by Cecília Santos (2018), that the IACHR ruled inadmissible. Because it was a case considered unsuccessful, with no impact, from the perspective of state law, the very history of mobilization in this case has come to be silenced by professionalized human rights and feminist NGOs specializing in strategic litigation (C. Santos 2018).

Therefore, the predominance of technical-legal knowledge has consequences for the locus of action, the mobilization strategy, the work methodology and the knowledge constructed during the process of transnational legal mobilization. If the ecology of legal and non-legal knowledges and practices is ignored, and there is no intercultural translation, the knowledges constructed will be based only on state law, making subaltern cosmopolitan legality invisible and reproducing cognitive injustices. In our view, the counter-hegemonic potential of transnational legal activism will be more likely to be achieved if it adopts multiple working methodologies, allying with and learning from people´s lawyering.

3.3. People's lawyering and transnational legal activism: the case of the *quilombola* community of Marambaia Island

In her doctoral thesis, Flávia Carlet (2019) delimits the conceptual contours of people´s lawyering, based on extensive comparative empirical research and on the theoretical contributions of the Epistemologies of the South. According to the author, people´s lawyering creates a relationship of proximity with its clients, which is maintained throughout time. It employs a pedagogy of lawyering based on dialogue and on the intercultural translation of knowledge, by means of grassroots legal education workshops, meetings, and gatherings in the spaces of organization and community struggles (settlements, street protests, community

associations, etc.). The knowledge it builds is a legal-grassroots knowledge from a close and continuous interaction with the social movements and groups advised, performing, therefore, a counter-hegemonic use of law from below (Carlet 2019).

Carlet (2019) analyzes the specificities of the working pedagogy of people´s lawyering and its approach to transnational legal activism in the case of the struggles for territory of the *quilombola* community of Marambaia Island, in Rio de Janeiro. Made up of about 270 families, this community is composed of descendants from the black African population trafficked as slave labor to Brazil during the imperial period (1822-1889). In 1856, Joaquim de Sousa Breves, one of the largest coffee growers and owners of enslaved people of the period, purchased Marambaia Island to land enslaved from enslaved ships, to supply his farms and others in the Rio de Janeiro region. With the abolition of slavery (1888) and the consequent bankruptcy of Breves' business, Marambaia Island was abandoned. The former enslaved people and their descendants remained in the area peacefully, occupying the territory through subsistence agriculture and artisanal fishing. In 1905, the Island was acquired by the Brazilian state and, in 1981, transferred to the Armed Forces of the Brazilian Navy.

In 1990, the state initiated a legal process to expel the families who descended from former enslaved people and to guarantee the exclusive use of the site for military training. In the face of this offensive, between 1995 and 2015, the Marambaia's *quilombola* community resorted to the support of different organizations and institutions to demand the recognition of its *quilombola* identity and the right to collective titling of the historically occupied territory. Among the organizations that accompanied and strengthened these claims, the People's Legal Assistance Center Mariana Criola (Centro de Advocacia Popular Mariana Criola, hereafter cited as Mariana Criola) and the NGO Justiça Global stand out.

Mariana Criola is a people´s lawyering non-governmental organization focused on supporting urban and rural communities and social movements in the state of Rio de Janeiro. It is guided by a continuous and close work with the groups it advises. Its goals include sharing knowledge, translating the legal

language, and jointly building legal and political strategies for the defense of these groups' rights. Its practice involves working within the state institutions, but is not limited to them, as it favors networking with other lawyers and non-governmental organizations at local and national levels. Equally important, Mariana Criola members participate in meetings, workshops, and gatherings with the groups they serve, seeking to contribute to the process of community organization and strengthening.

The *quilombola* community of Marambaia sought support from Mariana Criola in 2006 in order to better understand the legal scenario of the dispute surrounding the titling procedure of the territory, which had been interrupted by a judicial determination, at the request of the Armed Forces. Through people's legal education workshops, the lawyers socialized the context of the ongoing judicialization and provided a reflective and critical analysis of the legal and political conjuncture to seek, together with the community, a solution to the problem. Throughout the activities, Mariana Criola built a relationship of trust with the people assisted, sharing responsibilities in the preparation of the activities, sharing knowledge and analysis according to their demands. On the other hand, it relied on the community's experience and knowledge for the preparation of the activities' content and for the analysis of the titling problem.

In 2009, due to the escalation of the conflict with the Brazilian state and the continued slowness of the titling process, the case was taken to international instances of human rights law. Through the legal assistance of the NGO Justiça Global, the community filed a complaint against the Brazilian state in the IACHR.

Justiça Global is a human rights NGO based in Rio de Janeiro, with operations in several states in Brazil, developing actions at national, regional, and international levels. It has specialized in strategic litigation, whether in the context of the IAHRS through the elaboration of denunciations of human rights violations before the IACHR, or in the United Nations' organs of human rights protection. It participates in hearings before the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights, and in the follow-up of reports for UN special procedures. It also acts through networking

with human rights defenders, representatives of the justice system, non-governmental organizations, and national and international human rights committees.

The complaint petition to the IACHR was drafted by Justiça Global and Mariana Criola, although the legal foundation and formalities were largely provided by Justiça Global due to its specialized knowledge and practice in strategic international litigation. Throughout the elaboration process, Mariana Criola and Justiça Global conducted site visits and meetings with the *quilombola* community in Marambaia to gather data. However, this close relationship between Justiça Global and the *quilombola* community was temporary, as contact became dependent on the processing of the complaint in the IACHR.

The complaint was signed by several organizations: Justiça Global, Mariana Criola, Marambaia Quilombola Association, Centre on Housing Rights and Evictions (COHRE, an international NGO based in Geneva), and the University of Texas Human Rights Clinic. The internationalization of the conflict guaranteed the immediate national and international visibility of the case. On the other hand, the slowness in the process of receiving the complaint by the IACHR – it took six years for the Brazilian state to be notified by the IACHR – caused the strategy to fizzle out at the international level, and ceased to have any impacts on the struggle in the following years. In 2015, through a Term of Adjustment of Conduct between the *quilombola* community and the Brazilian state, the collective property title was issued in the community's name. The *quilombolas* consider the outcome to be a historic achievement, although they recognize that to reach such an agreement, the community lost an important part of its territory.

The legal work carried out by Mariana Criola and Justiça Global in the case of Marambaia illustrates the particularities of people´s lawyering and transnational legal activism, as well as the interface between these practices of legal mobilization. Both organizations network with lawyers and other organizations to create their strategies and strengthen the claims of their clients. They contribute, in this way, to the construction of an ecology of legal and community knowledge, aimed at seeking alternatives and strengthening the

collective struggles for rights. As a specialist in strategic litigation in the field of human rights, Justiça Global favors legal mobilization at national and transnational scales, focusing on state institutions and international organizations. Mariana Criola carries out grassroots advocacy, working on an eminently domestic scale, developing strategies for mobilizing the law 'with', not only 'for', its clients.

In addition to the specificities, it is also important to highlight the contexts of the intersection between the two practices. When the Marambaia case required an advocacy strategy before the IACHR, Mariana Criola directly contributed to transnational legal activism, expanding the locus and scale of the impact of its work. Justiça Global, in turn, by working in a network and alongside the people´s lawyering undertaken by Mariana Criola, integrated into its action a local scale of mobilization, through dialogue with the *quilombolas*, even if this contact was temporary and conditioned to the procedural steps of the complaint before the IACHR.

The case of Marambaia also illustrates the specific contributions of the two organizations to the promotion of cognitive justice. The methodology adopted by Mariana Criola, guided by the purpose of working with the community and producing a dialogue between legal knowledge and quilombola knowledge, contributed to the organizational strengthening of the community and to its protagonist role in confronting the obstacles in progress. Justiça Global, oriented toward the protection and promotion of human rights at an international scale, opened a new front in the legal struggle by bringing together various organizations, the community, and distinct advocacy practices in a collective and transnational mobilization of law.

	Goals	*Locus of action*	*Scale of legal mobilization*	*Relationship with oppressed groups and/or individuals struggling for rights*	*Methodology or dialogue of knowledges between allied actors*	*Mobilized and constructed knowledges*
Transnational Legal Activism	To adopt or implement international treaties; transform case law; create public policy and legislation; support a cause and strengthen social movements	Institutional (judicial and extra-judicial)	Transnational	Mediated (by people´s lawyering and/or social movements)	Transfer of knowledge (top-down)	Legal
People´s Lawyering	To provide advice and socialize legal knowledge; to strengthen community building; to promote social transformation	Institutional and communitarian	Local/ national	Direct	Intercultural translation (horizontal)	Grassroots and legal

Comparative summary table between Transnational Legal Activism and People´s Lawyering
Source: the authors

4. Conclusions

Throughout this chapter, we have sought to identify and refine the conceptual contours of different practices of mobilizing law for legal, political, and social change, such as public interest lawyering, strategic litigation, transnational legal activism, and people´s lawyering. We highlighted some conceptual confusions and generalizations that end up making invisible the specificities of people´s lawyering practices and transnational legal activism. Public interest lawyering, for example, should be understood '[...] in the narrow sense of the term, within its own contours, as a specific mode of lawyering' (Carlet 2019: 72). If understood too broadly, it tends to produce equations

between very distinct experiences, leading to a homogenization of these legal practices and making their particularities invisible.

To consider people´s lawyering as an expression of public interest lawyering results in a mistaken identification between modalities of legal mobilization that have substantially different trajectories, meanings, principles, and pedagogies. Experiences of legal advice, deeply linked to people's legal work, should not be merged with all forms of legal mobilization under the risk of erasing their particularities, which are essential for the preservation of their identity and the plurality of legal practices currently underway in Brazil and in Latin America.

Reducing transnational legal activism to strategic litigation also hides the complexity of that practice of legal mobilizing, the multiple actors involved, the power relations between them, the heterogeneity of knowledge and practices mobilized, as well as the counter-hegemonic potential of using international human rights law.

In the wake of the Epistemologies of the South, we recognize and think of the South in its diversity, privileging multiple legal experiences in the scenario of social and political struggles for rights. Thus, the singularities of people´s lawyering and transnational legal activism should not be identified only in comparison with traditional liberal-individualist lawyering, nor through their generalization to other experiences, but rather in their contrast with specific modalities of legal mobilization.

In addition to deepening the conceptual contours of different practices of legal mobilizing, we added new criteria of differentiation based on the theoretical contributions of the Epistemologies of the South, which help us to pay attention to the epistemic dimension of struggles for justice. Based on our respective research on transnational legal activism and people´s lawyering, we highlighted the differences between these practices and their approximations. In our view, the following criteria should be used to deepen the conceptual contours of these two practices: (1) goals; (2) locus of action; (3) scale of legal mobilization; (4) relationship with oppressed groups and/or individuals struggling for rights; (5)

methodology or dialogue of knowledges between allied actors; (6) mobilized and constructed knowledges.

We showed how the Epistemologies of the South framework expands and enriches the conceptual contours of legal mobilization practices. This was illustrated by our respective research on transnational legal activism and people´s lawyering. Such an approach allows us to: (a) enhance the visibility and understanding of the plurality of legal and human rights mobilization experiences; (b) delineate the specificities of legal mobilization practices, especially their working methodologies and the interaction between different knowledges; and (c) identify when and how different practices of legal mobilization intersect and have the potential to promote not only social justice, but also cognitive justice.

We hope that our research and theoretical reflections will contribute to clarify and avoid conceptual confusions, stimulating new studies specifically focused on the interface between people's lawyering and transnational legal activism in Brazil and Latin America. In the context of neoliberalism and multiple forms of oppression, these practices of legal mobilization become even more necessary for the strengthening of counter-hegemonic social, legal, and political struggles from the South, with the aim of multiplying forms and strategies of resistance to the prevailing structures and ideologies of domination.

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