


Legal Education Opening to Interdisciplinarity – Are Law School Curricula Capable of Educating Future Elites? Remarks in the Context of the Polish Legal Education System

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Abstract: An important issue in the discussion on the quality of legal education is the interdisciplinary character of legal studies. The main problem is how much the interdisciplinarity is demanded and needed by the consumers of the legal education market. It is believed that bringing interdisciplinary elements into law studies curricula, contributes to enhancing knowledge, skills, competence, and qualities that are necessary in modern times, sometimes much more than just dry legal knowledge. Lawyers who have sound knowledge of economy, finance, sociology, or psychology may provide better services tailored to their clients' needs. The major question remains – what makes a good lawyer – technical legal skills and fluent knowledge of legal provisions, statutes, case-law, or ability to listen, to understand the social processes or economic mechanisms better, having a better methodological apparatus, familiarised with a richer range of points of reference useful in creating solutions in their respective fields – having learned them from other disciplines of knowledge. The goal is to analyse the content of the Polish legal studies and reflect on how higher education institutions may address the issue of interdisciplinarity, in the context of the growing pressure to have highly skilled lawyers who can adapt to the fast-progressing socio-economic environment.

Keywords: Legal education, Interdisciplinarity, Law schools' curricula, Lawyers education system, Legal skills

Introduction

Contemporary challenges of the legal environment require from the lawyers to have much broader set of skills than they used to have before. They range from basic knowledge of psychology, negotiations, understanding of sociology and culture dependencies, business, financials, management, new technologies, politics and so on. Modern law schools should face this challenge in helping future lawyers to acquire these skills (Moreau De Bellaing, 2013, p. 83).

An important issue in the discussion on the quality of legal education in the context of its suitability to contemporary market expectations is to make this education open to interdisciplinarity.

Method

The text has been prepared based on qualitative research of critical analysis of existing literature and multi-year. Participative observations collected during the teaching practice of the author.

Results

One of the disciplines ignored in the education of lawyers is management science, covering, among others, contemporary management methods – based on knowledge and skills essential to both contemporary business practice and to, for example, administrative, political, or similar activity. The deficiencies in this area, resulting from a complete omission of education in this field, make law graduates, especially those pursuing non-legal professions, learn the basics of management only as they work in their respective professions.

Is it about achieving an effect of the process of educating lawyers in the form of creating a group of technically skilled professionals able to cope well with the normative space of the thickening regulatory web? The solutions concerning final state professional examinations adopted in particular countries differ greatly from one another. The German model is particularly interesting in this context (Pankowska-Lier, 2017, p. 47). Or perhaps the objective of such an education is to form elites sensitive to the environment, able to co-shape the general awareness, driven by guidelines to serve a common good (Wojtczak, 2018, p. 66)? Is it at all possible to form elites through schooling, assuming that it would be schooling based on teaching skills and abilities, regardless of passing on knowledge, and knowledge would also be extended to include other fields from outside legal sciences? Discussions on the role of law schools in educating professionals have a long history. In this context, it would be good to look into the content of these discussions from the point of view of lawyers' professionalism – which lawyers should display thanks to the education they have pursued – should be (Van Alstyne, Barnett, 1990, p. 11).

Discussion

The arguments highlighting the reasonability behind such an approach point to knowledge, skills, competence, and qualities that can be developed in lawyers who are given an option to pursue studies offering interdisciplinary elements. The significance of extra-legal skills in the process of educating lawyers in the US and on the US standards set in terms of the requirements for the acquisition of such skills in the course of law studies described by multiple authors (T. Zych, 2016, p. 19). There is a mention of a greater practical preparation of lawyers educated in such a manner, understanding the social processes or economic mechanisms better, equipped with a better methodological apparatus, familiarised with a richer range of points of reference useful in creating solutions in their respective fields – having learned them from other disciplines of knowledge. This matter seems to have been addressed best in the Anglo-Saxon models of learning the profession of a lawyer, where it is common to gain education in other disciplines than law beforehand. The arguments quoted to

justify such a possibility concern, among others, the difficulties observed among those studying only legal subjects in adapting to challenging social circumstances, noticeable stress symptoms, signs of alienation, and loss of motivation to study or work (Hess, 2002, p. 52). This is to mean such disciplines as: economics, finance, political science, sociology, or management science, but also some less obvious fields, like medicine or engineering science. No such earlier preparation closes one's path to becoming a lawyer. On the contrary, many effects of such prior education are considered useful at the later stage of legal education.

Teaching in other, more specialised fields shall take a form of offering students a range of options to choose from. Such a choice would be made depending on a given student's personal interests and motivation. It should be individualised, giving the student the freedom to make the decision on their own. The university education offered to lawyers should retain exactly such a nature, meaning that it should provide future lawyers with solid theoretical knowledge at the academic level. The claim is not against the assumption of not passing this knowledge based only on the content of the provisions in force, but also through an analysis of their practical application, mainly by way of examining the body of the existing judicial decisions.

The need to open the curricula of law studies to interdisciplinarity is motivated by both the fact that law by nature affects and regulates many different areas of activity as well as the fact that legal knowledge itself, given the increasing pace and complexity of contemporary living, often appears insufficient to prepare lawyers to engage actively in social matters. Looking, for example, at the area of business activity alone, given the complex nature of many disciplines, we can see that the law itself, according to contemporary trends, is formed of very specific standards, and the lawyers operating in this field are expected not only to understand the nature of a given industry but also to have considerable knowledge spanning beyond a general familiarity with matters at issue. Meanwhile, the traditional manner of educating lawyers involves teaching a very general subject of economic law, occasionally divided into public economic law and private economic law, finance law, and – rarely – banking law. In practice, the range of issues regulated within the broadly understood economic law is huge. After all, issues related to the pharmaceutical market or to the power industry address quite different matters, yet all placed within the generally understood field of economic law. Likewise, the familiarity with issues related to the functioning of stock exchange involves much different knowledge than that needed in the area of transportation, although the latter is a field within which the relevant legal considerations appear in different contexts for, say, the multimodal transportation of goods and passenger transportation.

The multitude, the level of detail, and the casuistry of legal regulations combined with the growing degree of complexity of business activity makes it increasingly difficult for contemporary lawyers – provided with only limited preparation in the area of modern business, followed by just a bit less limited experience with the issue at the stage of apprenticeship – to function in this field without a risk of being unprepared to cope with it. Interdisciplinarity is about much more than making lawyers sensitive to the need to open to other “non-legal” disciplines of knowledge. It is most of all about an education composed of thematic blocks that offer elements of knowledge to which the law refers. In an optimal setting, it is also about providing lawyers with an opportunity to gain education in other disciplines as well. This is especially true for lawyers who will pursue

professions other noticeable stress symptoms, signs of alienation, and loss of motivation to study or work (Hess, 2002, p. 52).

law studies respond not only to a need of forming a body of professionals who will take advantage of their legal knowledge and skills in their professional activity, but who are not necessarily only human resources of an institutionalised system of justice. What is more, in some legal traditions, legal education focused on building elites is actually ex- pressed in the form of a set of obligations defining the role of law schools in fulfilling the state-build- ing mission and performing tasks related to ensuring that universally accepted values are respected. Like in e.g. Great Britain (Revell et al., 2018, p. 555).

There is yet another area – that of issues related to *compliance* regulations, applicable especially to regulated markets, covering the entire spectrum of both extensively-covered and newly-identified problems relating to, for instance, the nature and the scope of standardisation of industry-specific self-regulations. *Compliance* is also about counteracting the financing of terrorism, money laundering, tax avoidance, use of confidential information for own material gains, misinformation on the qualities of goods and services, and so on.

Another example of probably the most dynamically developing field of law is the new technology law (Directive 95/46/EC). It covers issues related to the application of IT technologies in the practice of business trading, and is related to issues such as automation, robotization, artificial intelligence, cloud-based computing, the Internet of Things, and so on (Chałubińska-Jentkiewicz, Karpiuk, 2015, p. 41). It also addresses some completely new solutions for which there are no equivalents in languages other than English yet, such as FinTech, RegTech, smart contracts, big data, blockchain (S. Baker et al., 2018, p. 20). An example of one such solution is the concept of “LegalTech” based on mathematical algorithms and involving taking advantage of the so-called “botisation” and artificial intelligence to support the work performed so far by lawyers (Szostek, Kamiński 2018, p. 15). It makes use of the available and technically feasible solutions which – thanks to machines programmed to be capable of self-programming based on historical data extrapolated from similar circumstances from the past – carried out tasks performed thus far by lawyers (Horbaczewski, 2018, p. 5).

Given such assumptions, it is possible and reasonable to design the programme of education in a way that it prepares law graduates to perform such tasks as well as they can. This may happen through e.g. including fields other than those law-related in the curriculum (Wall, 2010, p. 208). Specifically, such fields that may appear particularly useful in the process of performing opinion-shaping, political, or economic functions, or may be necessary in the context of the remarks on elite building, meaning related to the development of the relevant cultural resources. Moreover, such a model of educating lawyers would translate into law graduates becoming equipped with knowledge and methodological instruments that let them pursue their profession regardless of the specificity of the country’s legal order. This generalisation and cosmopolitani- sation of law studies is addressed by William Twining as follows: “In exploring the possibilities for a new form of general jurisprudence which can underpin law as a cosmopolitan discipline, ques- tions arise as to the feasibility and desirability of generalisations about law – whether these be analy- tical, normative, empirical or legal in nature. Such questions

are relevant both to legal scholarship and legal education.” (Twining, 2007, p. 130).

The opportunity for the development of such disciplines which can be formed thanks to this education is among the advantages resulting from acknowledging legal education as one of the ways to form state-building elites. These include:

- legal culture,
- understanding system relationships,
- promoting pro-state, pro-social, pro-community attitudes,
- economic activity,
- sensitivity to the needs for and necessities of changes, and an active involvement in influencing such changes.

All this can be supported by the right approach to the issue of changes that need to be made in the current model of teaching law.

Even with such an assumption, the current model of education is not ready to provide future lawyers with all the necessary professional skills and competence. This is the case with, for instance, rhetorical and eristic competence and abilities. Law studies abandoned education in this area a long time ago, and the formalised, written-form-dominated court procedures do not favour the acquisition of such knowledge at the stage of pursuing one’s apprenticeship either. Meanwhile, lawyers engaged in a professional economic, political or social activity still do need to have practical experience in such areas as argumentation, giving presentations, or negotiation. On the professional requirements of lawyers in the area of eristic and rhetoric (Jabłońska-Bonca, 2016, p. 34).

Conclusion

This downgrading of the role of lawyers can be prevented by designing the model of legal education in an appropriate way. Given the ever-changing nature of law, the increasingly complicated nature of social and economic relations, and the rate at which the changes take place, teaching law involving covering the provisions currently in force and expecting future lawyers to know them all does not seem to be the right approach. Law studies should most of all offer a solid theoretical foundation while retaining an academic nature (Glesner, 2007–2008, p. 313). But this does not mean they should be taught in isolation from current practical issues.

the disparity between the manner in which lawyers are taught and the practical market needs is teaching while omitting the criterion of identification of market needs reflected practices born and followed in law firms. This applies both to big firms, which ‘generate’ particular practices, and smaller ones, choosing to specialise in specific fields. The most common examples concern legal specialisations involving practice in such areas as: real estate, bankruptcy, power industry, pharmaceuticals, corporate industry, new technology law, competition

protection, or litigation practice.

The formation of new legal specialisations is a result of many processes taking place at the same time. The dynamic social progress manifested in clearly articulated changes in the attitudes and lifestyles of particular groups, the increasing complexity of the already complex economic relationships, and the rate of technological advancement lead to new areas of law emerging faster than ever.

Recommendations

Graduates of law should become trendsetters for social, economic, and cultural development; actors ready to play their respective parts on the public stage, and not just professionals making good use of their practical knowledge and legal techniques. This view has definitely won the favour of the system of educating lawyers in the US, where since the 1960s, the objective of professional development has been to perfect one's technique. Earlier, the role of law faculties was limited to teaching students knowledge in the field of substantive law and procedures, educating them in legal analysis, legal reasoning, and using sources of knowledge of law. The change involved shifting the focus on solving specific issues in relationships with clients, negotiating, or even appearing before a court (Rochowicz, 1994, p. 181). A view for reducing the role of lawyers to law technicians is the basis of a model gladly adopted by the profit-maximisation-oriented law business, pushing young lawyers away from the traditional model of a lawyer pursuing the profession as service rendered as part of a system of institutionalised enforcement of justice.

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