

Purposes and Objectives of Law Schools Beyond Educating Students (Research, Capacity Building, Community Service and Outreach)

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I. Introduction

I have been asked to speak about the objectives of law schools that go beyond the mere education of students. However, these topics can hardly be addressed without taking into account the particular academic tradition in my country. Thus, I will first of all try to briefly explain the concept of legal education in Germany. In my short remarks, I will focus on the traditional legal education which aims at qualifying a law student for all positions in the legal profession, i.e., for the positions of judges, lawyers, public prosecutors, etc. I will not, however, address law-related degrees which do not lead to such a „full“ qualification.

1. The Present Situation

Legal education in Germany is governed both by federal law and state law. Nobody is allowed to practice law as a judge, lawyer or public prosecutor without having passed two state exams. The first state exam aims at testing the academic performance of the students. This first state exam is regarded as an equivalent to a master degree. It takes place after at least three and a half years of studies at a university. However, students from state universities obtain this degree, on the average, only after nearly five years.

The second state exam takes place after a traineeship period of two years. During this period, the trainees have to pass several different stages working in different functions and areas of law as articulated clerks at courts, law firms or institutions of the public administration. The average trainee passes the second degree at an age of 27 or 28 years. The aim of this state exam-based legal education is to equip the trainees with all skills necessary for their future career in any legal profession. In other words: The second state exam is designed to provide a general or ‘all-round’ legal education and to enable the trainees to start their career immediately as a lawyer or a judge. The law faculties, however, are not involved in this non-academic part of legal education.

2. The Current Reform Debate

The above mentioned concept of legal education has a significant impact on the activities of law schools that go beyond the education of students. The same is true with regard to recent and forthcoming changes and challenges in the German system of legal education. The general discussion about higher education in Germany is dominated by the so-called Bologna debate which is initiated and driven by the European Union. The crucial question is: Will the state exam-based system one day be replaced by bachelor and master programs?

Or will the state exam-based system simply be supplemented by specialized bachelor and master programs which do not qualify for positions in the legal profession?

The predominant opinion among German scholars, practitioners and politicians is as follows: Only a small minority favours the full replacement of the state exam system by bachelor and master programs. At the present, only six of the more than 40 law faculties in Germany are awarding a bachelor degree in combination with the state exam-focused law studies. My home faculty, Bucerius Law School in Hamburg, is one of these institutions. However, the bachelor degree is still of minor importance in legal education in Germany.

On the basis of these introductory remarks, I will now try to answer the questions put by the IALS Conference organisation.

II. Research

Everybody knows that research is an indispensable component of academic performance. However, there are some peculiarities regarding law schools in Germany.

1. The first peculiarity is that lecturing in Germany is strongly linked to research. It is worth mentioning that there is, perhaps with the exception of foreign language lecturers, hardly any academic career without significant individual research activities in Germany. Anybody pursuing an academic career must show a strong individual research performance before he can be selected to give lectures and eventually achieve the status of tenured law professor. Thus, assistant professors need to produce, during a period of about five to six years of post-doctoral research, a piece of work that forms a significant contribution to the academic debate. This "second book", a major thesis called 'Habilitation', has to be approved by the faculty. Without this, it is hardly possible to advance in legal education in Germany.
2. A second notable fact is that it is very unusual for professors to pursue an academic career at their academic alma mater, i.e., at the university where they spent their years of post-doctoral research. The general rule is that vacant chairs will be filled after competitive 'beauty contests' between external applicants. An academic career made purely 'in-house' would be regarded as suspicious.
3. Thirdly, one might highlight that a law professor in Germany carries out his research as the head of a chair. That means that he or she is permanently supported by doctoral and post-doctoral researchers and a secretary office of his own. At the same time, professors have to supervise their assistant's own research activities.
4. Fourthly, the research work and the academic opinions of German academics have a direct impact on legislation and jurisdiction. This impact is largely due to the so-called commentaries. In the terminology of the legal profession in Germany, commentaries are books of reference – oftentimes consisting of several volumes – which comment on the interpretation of existing statutes and case law, thereby systematically preparing future legislation and court decisions. Also, academics try to interfere directly with legislative and judicial decisions through critical essays in law journals. As a result, court decisions in Germany are in most cases reflections of academic opinions which have formed the

basis for the discussion and which have pointed out possible solutions of open legal questions.

Sometimes, legislation is even based on an initiative from academic circles and working groups. This may best be illustrated by the fact that the official notes to, e.g., reform bills which are prepared by the departments of the Federal Ministries that use to cite academic opinions. Furthermore, the Committee on Legal Affairs of the German parliament (Rechtsausschuss des Deutschen Bundestags) uses to invite professors as legal experts in order to discuss their opinions and suggestions before law reforms take place. The recent reform bill pertaining to the limited liability corporation, e.g., can be regarded as a result of a vast academic discussion.

III. Capacity Building

The importance of capacity building is more and more subject to general attention in universities and influences a faculty's policy as well as its academic organisation.

1. Students

With regard to students, a special emphasis is increasingly put upon a so-called 'studium generale' which enhances the general education of students as mature citizens. Bucerius Law School in particular strives to equip students with skills that go beyond legal education, namely

- social competence,
- cultural activities, and
- soft skills.

2. Executive Education

In addition, executive education, i.e. the further vocation and training of practitioners, gains more and more importance in the life of law schools. In Germany, there has long been a significant market for executive education. In the past, however, universities did not offer courses on executive education themselves. Instead, the demand was met – very successfully – by private businesses which on their part often hire university professors as lecturers. This fact illustrates the dominant role of scholars in legal practice and particularly in executive education in Germany. On the other hand it shows that the law faculties neglected the opportunities of their in-house know how.

This has begun to change: Increasingly, universities discover executive education as a source of funding and begin to establish programs under their own brand. Again, Bucerius Law School serves as a good example. Our program 'Bucerius Education' includes, inter alia:

- a Leadership Program for future partners of law firms, furnishing them with leadership and management skills,
- tailor-made in-house programs for corporate clients and law firms with courses in the fields of law, business and key qualifications (recently, for example, for Deutsche Bahn), as well as

- courses on the basis of ongoing collaborations with the professional organizations of lawyers, accountants and tax advisors.

3. Consulting

An aspect of capacity building that may be unique to Bucerius Law School as Germany's first private law school may be the unit 'Bucerius Consulting', which offers consulting services in the areas of education and research organized by private institutions. It combines the know-how of the ZEIT-foundation Ebelin and Gerd Bucerius, the Bucerius Law School, the Bucerius Education GmbH and selected national and international networks.

IV. Community Service and Outreach

German scholars are very successful in their outreach to policy makers and legal practitioners. In contrast, law schools' efforts in day by day community service seem rather unimpressive.

1. Law Schools and policy making

German policy making relies to a large extent on the competence of scholars and research institutions. So, the presence of academic expertise in politics is taken for granted in the German society. However, it is more than unusual for individual law schools to market their engagements in the sense of promoting their proper brand in this field. Usually, research driven achievements in legal policy are attributed to individual scholars or groups of scholars. But their home faculties only enjoy a pale reflection of this fame as a poor benefit from these activities.

2. Law Schools and legal practitioners

There is a close contact with practitioners through conferences. It needs to be stressed that it is rather common for lawyers and even for judges to participate in conferences hosted by law professors. This interaction may also serve as a reflection on the general importance of academic research in the law of today. But even this outreach activity is largely focused on the reputation of individual scholars rather than deans and faculties.

3. Law Schools and community service

On a comparative basis, one has to state that community service offered to individual citizens by law schools – for example through pro bono legal advice – seems underdeveloped in Germany. This is at least partly due to the fact that only fully qualified lawyers are allowed to give legal advice. Legal advice offered by students would be unlawful in Germany. However, it is more than likely that there will be a significant change in the next years as Germany will benefit from the developments in other European countries.