

Educating the Global Lawyer: The German Experience

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I. Introduction

A. Legal Regimes

Law is tied to territory. Not counting the international legal system, four main different legal regimes are found in the world subdivided into national legal systems: civil law, common law, civil-common law (“bijuridical law”) and Islamic law. The answers mankind has found to establish rules, settle disputes, resolve torts and govern contracts can be described as related to these legal regimes. Civil law, consisting of codified norms describing answers to paradigmatic constellations of conflicts or torts, has its roots in Roman law and the Code Napoléon. Territorially-based jurisdictions still dominate legal thinking and legal education in Europe, Latin America, large parts of Asia and the French-speaking parts of Africa. In Germany, the Roman law tradition prevails today. In Great Britain, the United States, Australia, New Zealand, the Indian subcontinent and the English-speaking parts of Africa, common law is the prevailing “method” to deal with legal affairs. In Arabic countries, Islamic law, derived from the *Sharia*, is used to organize human interaction. In a few countries—South Africa, the Quebec Province in Canada—bi-juridical regimes represent combinations of civil and common law.

Globalization in the trade of goods and services gained speed with the deregulation of European law firms in the 1990s. Multinational law firms, mergers and coalitions lead to significant changes in the E.U. landscape. In Germany, the largest law firm in the mid-1980s consisted of some fifteen lawyers, ten of whom were equity partners. Today, seven of ten of the largest law firms in Germany bear British or U.S. names even if their business mainly involves Germany and most of their lawyers are trained in Germany.

Today, one of the main challenges legal practitioners face is the increasingly international and complex context of their work. Understanding a single,

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national law is no longer sufficient to meet client demands.¹ Stephen Zack, president of the American Bar Association (ABA), stressed in his 2010 speech at Bucerius Law School that the legal profession will change more dramatically in the next ten years than it has changed in the last one hundred. Global clients want global legal solutions, and law firms must also address issues involving project management, risk management and the “commoditization” of the profession, such as subcontracting legal work to India.

B. Legal Education

The increasing globalization of law practice has consequently put pressure on law schools to reform their curriculum.

Traditional legal education treats the study of law as an academic science and teaches students to “think like lawyers” through the appellate case method. Until recently, instruction on the practical side of the law was largely left to law firms and continuing legal education (CLE) organizations.... However, the pressures of modern law practice have forced schools to rethink their educational methods. From skills-oriented courses and classroom simulations to externships and clinics, law schools are reshaping the traditional educational model to adopt a more dynamic, integrated curriculum that includes skills training and hands-on experience.²

Leading law schools nowadays face a double challenge. They have to combine “core” legal instruction, which means maintaining a high-level education in theory, history and domestic law, while preparing graduates for an ever more global business. Students ask for and expect a complete and well-rounded package. Five key elements describe the state of the art:

1. Context-oriented education instead of “island knowledge”: In addition to a knowledge of “black letter law,” students need to learn law through an interdisciplinary approach and learn practical skills (e.g. drafting skills, legal research) in addition to theory;
 2. International approach: The core curriculum should include international law courses and legal foreign language courses, and students should gain international experience through study abroad;
1. Sigrid Quack, Nationale Vielfalt als Ressource, Die Internationalisierung europäischer Rechtsanwaltskanzleien, in Arndt Sorge, Internationalisierung: Gestaltungschancen statt Globalisierungsschicksal 157-174 (WZB 2009); Morgan Glenn & Sigrid Quack, Global Networks or Global Firms? The Organizational Implications of the Internationalization of Law Firms, in Anthony Ferner, Javier Quintainilla & Carlos Sánchez-Runde, Multinationals, Institutions and the Construction of Transnational Practices: Convergence and Diversity in the Global Economy 213-238 (Palgrave Macmillan 2006); Glenn Morgan & Sigrid Quack, Institutional Legacies and Firm Dynamics: The Growth and Internationalization of UK and German Law Firms, 26 Organization Studies 1765-1785 (2005).
 2. Sally Kane, Education Innovation, available at <http://www.abanet.org/ltd/studentlawyer/septo8/education.shtml>.

3. Practice-oriented education: Students should have the opportunity to participate in internships, externships, clinical programs, moot court trainings and competitions;
4. Understanding/awareness of the economic context, business knowledge, management (and leadership) competence; and
5. Key qualifications: Students need to acquire skills in communication, negotiation, presentation, project management and to develop an intercultural awareness.

II. Legal Education in Germany

Since the mid-19th century, the *Einheitsjurist*, the law graduate trained to become judge, lawyer, state attorney or civil servant, has been the paradigm of German legal education. The student's grades on two state exams, both created approximately 200 years ago to raise the bar of entry to the legal profession, determine his or her career path, more than the reputation of the law school attended. For example, Heidelberg sounds better than Giessen, but five points (out of fifteen) in the state exam from Heidelberg University is of much less value than ten points from Giessen.

To a large extent, each state's exam requirements influence the curriculum. Assuming that some 75 percent of the subjects are required to pass the exams, law schools still have flexibility in the remaining 25 percent. Among the forty-two law faculties in Germany, Bucerius uses that flexibility to focus on international law in a unique way.

III. The Bucerius Model

Founded in 2000 by the ZEIT-Stiftung Ebelin und Gerd Bucerius, one of the largest German foundations, Bucerius Law School is the first private law school in Germany. Its four-year course differs in several key respects from traditional German legal programs and, as such, represents a compelling new model. The Bucerius philosophy is not only to offer future jurists a well-rounded education in legal matters, but to produce individuals with an in-depth understanding of the international legal, economic, and political contexts as well.

Bucerius emphasizes national and international—especially European and Anglo-American—business law. A substantial part of the teaching, especially at the beginning and end stages of the program, takes place in small groups, and students are expected to actively participate in the lectures and receive regular feedback on their performance. Unlike at German state universities, students at Bucerius receive their first degree, LL.B., after three years, which to a large

extent is still uncommon in Germany.³ These LL.B. graduates are on par with their fellow students at German state universities, but up to two years further in their studies with a notably broader and more international curriculum and more practical experiences.

Bucerius has adopted a trimester system which allows students more flexibility and choice. Excellent English language skills are required for admission, a mandatory semester abroad after two years of study is integrated into the curriculum, credits from abroad are transferred to the students' degree program and all students study at least one other legal system.⁴ A unique fourth-year-preparation program tied to the state exam has helped students score top exam grades. A sophisticated foreign language program is a mandatory part of the curriculum. Students may choose from a selection of language courses including French, Spanish, Chinese and Russian. After the ninth term, students may take an examination to earn an internationally recognized certificate in legal English or French.

Reflecting this international emphasis, Bucerius is the only German law program whose exchange agreements with law schools in the United States have been approved by the American Bar Association. Students from thirty-two law schools in the U.S., including Stanford, Berkeley, NYU, Cornell, Penn, Michigan, Georgetown, and from sixty-one universities elsewhere in the world, spend a term at Bucerius and earn credits towards their degrees.

Bucerius also engages in initiatives fostering transnational legal education. Since 2008, it has been an affiliate partner of the Center for Transnational Legal Studies⁵ in London. Founded by Georgetown, the center connects the law schools at King's College London, FU Berlin, the University of Fribourg, the Hebrew University of Jerusalem, the University of Melbourne and the National University of Singapore. Bucerius is also a member of the Association of Transnational Law Schools (ATLAS).⁶ During the annual meeting (ATLAS-Agora), postgraduate and Ph.D. students from the London School of Economics and Political Science, NYU, Osgoode Hall Law School of York University (Toronto), University of Cape Town, Universidad de

3. Andreas Schlüter & Barbara Dauner-Lieb (eds.), *Neue Wege in der Juristenausbildung* (Stifterverband für die Deutsche Wissenschaft 2010).

4. Harry W. Arthurs, *Law and Learning in an Era of Globalization*, CLPE Research Paper No. 22/09, Sept. 25, 2009. In Germany today, 20 percent of law students spend a semester or year abroad, and the numbers are increasing every year. Statistical data *available at* Bundesrechtsanwaltskammer, <http://www.brak.de>, and Hochschulrektorenkonferenz, <http://www.hrkd.de>.

5. *See* CTLS, *available at* <http://www.ctls.georgetown.edu>.

6. *See* ATLAS, *available at* <http://www.atlasdoctorate.com>.

Deusto (Bilbao), University of Melbourne, Université de Montréal, Bar-Ilan University (Tel Aviv), the National University of Singapore share their academic projects. Bucerius is also a member of the European Law Faculties Association, the German-American Lawyers Association and the American Bar Association.

Besides cooperating with international partners, Bucerius Law School integrates economics and business training into the law curriculum, which is offered by the leading German business school, WHU—Otto Beisheim School of Management.⁷ The Bucerius economic management curriculum is designed to meet the specific needs of law students. Thus it concentrates on decision-making, organizational structures, management theory, the theory of the firm and corporate finance as well as on the functionality and processes of markets, the economic capacity of law in a national economy and questions of taxation and fiscal systems.

Two obligatory internships, lasting three months, are part of the program. Students can intern with high-level law firms and corporations in Germany and abroad. Outside practitioners in law and business regularly meet with students, and a *Studium Professionale* adds rhetoric courses, job interview training, training in witness hearings and other skills. The *Studium Generale* is an extracurricular academic program designed to complement the Bucerius legal curriculum. It focuses on subjects outside of, but complementary to, the students' legal studies, such as history, political science, philosophy, economics, human rights and the arts. Exploring the fundamental questions of mankind, science and society, the program, called "philosophicum," offers annual lectures and two additional reading courses. Students who complete these courses can obtain an academic certificate in philosophy enriching the LL.B.-degree and/or state exam.

IV. Conclusions

Educating lawyers for a globalizing profession is possible but requires a law school that transcends traditional curricula and national borders. The future will also rest on increasing executive education. In Germany, the market for executive education amounts to some 12 billion Euros annually, yet universities account for less than 2 percent of that total.⁸ To participate in executive education, Bucerius has founded a Center on the Legal Profession,⁹

7. See WHU, available at <http://www.whu.edu/>.

8. Volker Meyer-Guckel, Derk Schönfeld, Ann-Katrin Schröder & Frank Ziegele, *Quartäre Bildung: Chancen für Hochschulen für die Weiterbildungsnachfrage von Unternehmen* (Stifterverband für die Deutsche Wissenschaft 2008).

9. See Bucerius Center on the Legal Profession, www.bucerius-clp.de.

focusing on the skills and knowledge lawyers need after their exams, especially understanding clients' businesses, management skills, strategy, and leadership training for lawyers in an internationalized setting.¹⁰

Should other law schools step into this field in Germany? Law and ethics are the key to passing the bar exam—business and management skills are not. But law schools have the reputation and the credibility to offer such courses.¹¹ Top law schools are heading in this direction: Harvard has created leadership training programs for law firms and corporate counsel. In the U.K., the Moeller Professional Service Firms Group, in cooperation with the Judge Business School in Cambridge, offers a law firm partner program.

A well-rounded, well-structured program designed exclusively for legal professionals is the niche that law schools can fill. This is a new market to meet the needs of a growing and increasingly influential group: lawyers who practice in an international legal environment.

10. Max Ringlstetter, Bernd Bürger & Stephan Kaiser, *Strategien und Management für Professional Service Firms* (Wiley 2004) (2010 ed. forthcoming); M. Ringlstetter, S. Kaiser & T. Polster, *Internationale Manager zwischen Lokalisierung und Globalisierung: Die praktische Anwendung einer Typologie*, in Stefan Schmidt, *Management der Internationalisierung* 343–368 (Gabler Verlag 2009); Daniel Sokol, *Globalization of Law Firms: A Survey of the Literature and a Research Agenda for Further Study* 14 *Ind. J. Legal Stud.* (2007); Carole Silver, Nicole De Bruin Phelan & Mikaela Rabinowitz, *Between Diffusion and Distinctiveness in Globalization: U.S. Law Firms Go Global*, 22 *Geo. J. Legal Ethics* 1431 (2009).
11. Carole Silver, *Educating Lawyers for the Global Economy: National Challenges*, *Geo. L. Fac. and Other Works*, Paper 30 (2010).