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Curricular Changes in Europe Law Schools

Frans Vanistendael*

I. The Typical Curriculum of the Mainstream European Continental Law School

It is very difficult to expose the changes in the European curricula that are taking place after the Sorbonne-Bologna declaration¹ and to focus on what is typical for Europe. The challenges that the University of Leuven Law School is facing in changing its curriculum are typical of a continental European law school. English and Irish law schools are excluded from this discussion because they decided that they had nothing to change. The big onus is on continental law schools.

Typically a continental law school has a curriculum of four to seven years. This is because, unlike American law students, continental law students do not attend college before enrolling in law school. This means that students in continental law schools are eighteen years old and are coming directly from high school. There is another problem: in contrast to the United States, continental law schools do not select their students. As access to universities in most countries is free, most schools are not able to choose their students. Every student has the right to go to the university, even if he or she is not the most exemplary academic. That means that European law schools will make a selection at the end of the first year. However, this selection process is not utilized in the United States' law schools.

What do law schools in Europe traditionally teach for four to seven years? Because most continental systems are based on the Civil Code, continental law schools teach statutory law. It is quite clear that in a common law system, the approach to teaching law will be different because much of the focus will be on teaching case law. In Europe, statutory law is the main focus; however, law schools traditionally have

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1. SORBONNE-BOLOGNA DECLARATION [Joint Declaration of the European Ministers of Education] (June 1999), http://www.bologna-berlin2003.de/pdf/bologna_declaration.pdf.

also taught subjects that the U.S. teaches in college, prior to graduate school. These subjects include a general introduction to humanities, history, sociology, etc. Essentially, European law schools are college and professional school combined. This double program takes about four to seven years, which corresponds, on average, to the six year programs in the United States.

II. The Nature of the Challenges

What is the challenge? The challenge is that we must reform the continental systems into two consecutive stages. The first is a three-year curriculum that leads to a bachelor's degree; the second is a one or two year curriculum, (depending on how much the national governments are willing to fund) that leads to a master's degree. The basic idea, like in the former Japanese system, is that people who hold bachelor degrees are lawyers who enter into government, or business, and are fit to practice law, but not as judges, public prosecutors, or lawyers in courts. People who hold masters degrees are general practitioners, who, after four or five years of study, will have a degree in law enabling them to practice in traditional legal arenas. In the U.K., nothing changes: lawyers have a bachelor's degree, then advance to the Inns of Court. Therefore, the challenge is to compress the general curriculum and the law curriculum into three years. How does one do this? In my law school, for instance, we have no less than twenty-two mandatory courses in the full size law curriculum. However, it seems nearly impossible to fit twenty-one mandatory courses, plus a general humanities curriculum into three years.

III. The Contents of the Reform

The first decision Leuven Law School made is not to make any concession with respect to general non-legal education. This means we still have courses in history, legal history, sociology, economics, psychology and basic philosophy. The Leuven Law School will not compromise this position because it is very important for an eighteen year old, who comes directly from high school, to have an intellectual immersion in the humanities. For a lawyer, these courses are very important because otherwise we are training or educating professional specialists without a wide human view.

After making a decision to maintain the volume of humanities, the question was how to compress the twenty-one law courses into what was left of the curriculum, because one third of the basic three bachelor years would be invested in general humanities. The answer: we must change the way we teach the law. We should throw out all the details, and

compress some courses. For instance, we previously had a course on company law, one on bankruptcy, and a third on trade law. We replaced them by a single course on the principles of European economic law. Similarly, we now require a course in constitutional law and one in administrative law; we should replace them by one basic course in public law. Consequently, this means that our colleagues will be forced to focus more on the sources and principles, and to leave the black letter law out.

This curriculum is a beneficial development program because, as curricula are growing more global, there are other areas upon which to concentrate; particularly in international, comparative, and European law. We would also have only one basic course in European and international law. We reserved the international, the comparative, and the global curricula for the Masters program. This also allows us to do part of the masters curriculum in English because all of the continental European law schools teach in any language but English.

One of the main objectives of the Sorbonne-Bologne Declaration was to make European legal education more competitive worldwide. The only way, however, to be competitive worldwide is to teach in English. Of course if one's national practice is in Dutch, it would be nonsensical to teach the students in English and then expect them to practice in Dutch. We must teach our students in Dutch, and we do that in the first three years of the bachelor's curriculum. However, in the masters program, we devote almost half of the curriculum to English courses. This means that our students, if they wish, can do one year of their curriculum in English. It also means that we can offer one full year of our basic masters curriculum in English to foreign students.

Within the same framework of the masters study, we also require students to study a major and a minor in two different fields of law. The fields are: private law, public law, criminal law, economic law, social law, tax law, and international and European law. The international and European law option consists entirely of courses in English. The master's degree gives access to the bar, the courts and all traditional legal professions.

IV. The International Dimension

The Leuven Law School plans to conclude agreements with a limited number of other European law schools for a joint degree that would give access to the bar in two different countries. We will accept candidates with a bachelor's degree from another law school in our masters study and, after two years of study, we will award them our master's degree and one at their home university.

Finally, we will continue to offer our specialized English master degrees (MAM or Master after Master), which are especially aimed at foreign students. Foreign students are accepted with the limitation that they have a prior degree in law that gives them access to the bar in their country of origin, very much like the present LL.M. programs in American universities. We have developed LL.M. programs in: European Community law; international business law; intellectual property law; energy and European environmental law; and European and international taxation law.

Chinese students from the People's Republic of China at Leuven Law School are the largest body of foreign students in the law school. One of the problems we have in Europe, unlike in the U.S., is that we teach our basic curriculum in German, French, Polish, Greek, Dutch, or Swedish. Very few Chinese students speak any of those languages because their foreign language is English. We try to overcome this language barrier by organizing most of our post-graduate programs in English and even some of our ordinary masters programs half in English, which broadens the range of courses for Chinese students. This also provides us with the opportunity to emphasize, at the masters level, the importance of international, European and comparative law and to de-emphasize national law.

The U.S. and Europe have a common interest in English programs at Chinese law schools. Today, the Chinese language is a high barrier for even the most dedicated European law students. Our interest in traditional and modern Chinese law is quite high. Hence, access to English programs in Chinese law is vital, as is access to legal studies for students of Chinese language and culture.

V. Conclusion

A typical challenge of law schools of a non-English speaking country in Europe is trying to meet the double challenge of (1) the adaptation of its program to the common European objectives on the one hand and (2) the globalization of legal education in the world outside Europe, on the other. It should be noted, however, that among the approximately 350 law schools in Europe there are dozens that either are unaware of this global challenge or do not have the resources to meet the challenge. These schools will continue to live on happily, but their impact will gradually be reduced to serve the very local legal establishments. Finally, law students in Europe are knocking at the door for an effective access to Chinese legal studies; it is time we answered their call.