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Comments on Law Studies and Legal Apprenticeship from the Perspective of Contemporary Market Expectations

Abstract

A discussion on the law studies and the legal apprenticeship system in Poland has been offered in the article from the point of view of a question about the objectives of educating lawyers and about whether the current system of legal education is appropriate. By pointing to the system-determined role of lawyers pursuing their profession within institutionalised structures of the system of justice, the article concentrates, among others, on issues concerning the selection of the subjects to be taught. But especially on the dilemma whether legal education should produce skilled law technicians or elites co-shaping the ethical, intellectual, cultural, and economic profile of society. The views contained in the article are presented starting from an assessment of the significance of market knowledge through a determination of the utility of curricula for further professional development of lawyers both as actual lawyers and pursuing other professions and ending with a comparison of teaching broken down into traditional branches of law and newly-forming fields thereof. The article addresses also the claims for opening law to interdisciplinarity and the role of lawyer as a profession of trust in the context of a constant need to reinforce the trust in law itself.

Keywords: lawyer, legal education, law studies, legal apprenticeship, legal professions, legal practice, new areas of law, interdisciplinarity, law examinations, trust in law, legal specialisations

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Market knowledge

A discussion on law studies and the legal apprenticeship opportunities offered in Poland today shall be held from the perspective of a question fundamental to this discussion. A question about the objectives of educating lawyers and about whether the manner of legal education is appropriate from the point of view of these objectives. The questions about the objectives of legal education lead first to the issue of how specific these objectives are, how much they differ from the objectives of higher education in general, how these objectives should determine – given the specific role played by those educated in law in the society – the selection of subjects taught as part of the legal education, and how they should affect the way these subjects are taught.[2] Are the questions concerning the manner in which future lawyers are educated similar to, or should they differ from similar questions regarding education in other professions? Or maybe the questions about the manner, the quality, and especially the content taught in the process of education are different in the case of law studies than in the case of education preparing people to pursue other 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?[3] 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?[4] 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?[5] This will be covered in more detail further in the paper. Is it necessary

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2 L.D. Barnett, *The Place of Law. The Role and Limits of Law in Society*, New Brunswick 2011, p. 198 et seq.

3 See: F. Rakoczy, *Czy prawnicy powinni być pragmatystami? Kilka słów o edukacji prawniczej z perspektywy neopragmatyzmu R. Rorty'ego*, "Krytyka Prawa" 2016, 3, p. 120 et seq.

4 Based on other countries' experience, cf. P. Ancel, *Towards a New Model of Legal Education: The Special Case of Luxembourg*, [in:] Ch. Jamin, W. Caenegem (eds.), *The Internationalisation of Legal Education*, Luxemburg 2016, p. 195 et seq; S. Korioth, *Legal Education in Germany today*, "Wisconsin International Law Journal" 2007, 24(1), passim. Also: J. Brunnée, *The Reform of Legal Education in Germany: The Never-Ending Story and European Integration*, "Journal of Legal Education" 1992, 42(3), p. 401 et seq.

5 Shaping elites in the process of teaching carries also a value of unification in it, eliminating the differences resulting from, say, background-related issues and shaping the ability to look at lawyers' mission from the point of view of common interests. See: L. Croxford, D. Raffe, *The iron*

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then to reflect on who a person having gone through the process of legal education should be? Or at least on what skills should such a person have at their disposal? How to work out a balance between sensitivity and openness to issues, phenomena, and processes which are not marked in terms of outlook and doctrine? How to arrive at this balance while leaving it up to the individual – meaning leaving it up to an individual's freedom – to identify the content and the significance of processes, phenomena, and issues in a way that such an individual does not become too weak, too indifferent to the necessity to take a definite stand on certain solutions, to make a choice, or even to force them.[6] In an ideal scenario, a lawyer well prepared to serve their role becomes someone who – like *common-law* lawyers – is involved in the ever-changing legislation process following the "law in action" model.[7] A lawyer well prepared to serve their role is also a lawyer who understands the processes taking place not only in their environment but also in the very structure of what law is and what becomes law.[8] The role will be served to a different extent by people educated in law and practicing their profession in such areas as:

- enforcement of the law – as part of an institutionalised system of justice,
- counselling,
- law-making (politics),
- opinion-forming (doctrine, also feature writers).

The education of lawyers in Poland is still based on a model which mainly involves passing on knowledge about the content of the current provisions of the law, and requiring students to learn this knowledge for examination purposes.[9] The growing

law of hierarchy? Institutional differentiation in UK higher education, "Studies in Higher Education Journal" 2014, 40(9), p. 1626 et seq.

6 L.D. Barnett, op. cit., p. 49.

7 On such a model of preparing future lawyers to pursue their profession in the *common law* system, where law schools combine features of scientific research centres with a mission to educate modern lawyers, aiming to provide their graduates with knowledge enabling them to observe the actual impact of law on social phenomena, see: W.E. Sullivan et al., *Educating Lawyers: Preparation For The Profession Of Law*, San Fransico 2007, p. 46 et seq.

8 Given the fact of the existence of new phenomena and, basically, new entities indirectly affecting the content of the provisions in force, and even directly creating the applicable regulations in the legislative domain, the role of a lawyer actively committed to their mission in a changing social – and especially economic – environment also involves identifying and taking these elements into account. Broader on the matter: J. Jabłońska-Bonca, *Problemy ze spójnością prawa i regulacjami pozaprawnymi a siła sprawcza państwa – zarys tematu*, "Krytyka Prawa" 2015, 7(1), pp. 157–175.

9 At the same time, the systems of legal education in other countries reach out more and more often to supplementary methods of teaching students the required content, focusing even more on participatory, interactive, and engaged teaching. An example is having blogs as a permanent feature acting as a pillar of legal education. Cf. V. Roper, *Blogs as a teaching tool and method of Public Legal*

range of regulations, which include new areas of social and economic activity in an increasingly detailed manner, makes it impossible to be fully familiar with all the provisions applied and in force in a given field. On the other hand, the access to these provisions, granted thanks to technology that enables one to verify their content at any time, makes requiring students to have such knowledge all the more pointless. Meanwhile, the growing expectations regarding the familiarity with provisions applied in many areas of law translates into a reduction in the amount of time that could be devoted to education in the most essential areas related to the most important institutions such as: constitutional, civil, criminal, and administrative – substantive and procedural law, EU law, and theory of law.

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.[10] 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.

Professional training, nowadays taking the form of an apprenticeship, should not involve a revision of the knowledge acquired at the university – which is actually the case at present. It should be practical. This means that it should be managed most of all by practitioners–specialists in their respective fields. An essential part of an apprenticeship should be not only knowledge itself but also its application. All this, of course, on the condition that we assume that it is necessary to keep the system of pursuing legal apprenticeships in a similar form. This leads to a question

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Education: a case study, "International Journal of Public Legal Education" 2018, 2(1), passim. On the grounds of the long-standing discussion taking place in Poland on the necessity to teach law students practical legal skills to a greater extent already during their studies – see also: J. Warylewski, *Problematyka modelu edukacji prawniczej w Polsce*, a paper presented on 4 April 2006 at a conference entitled: "Kondycja nauczania prawa w Polsce", organised at the Faculty of Law and Administration of the University of Warsaw, under the patronage of the First President of the Supreme Court, Prof. Lech Gardocki, PhD, p. 9. http://www.warylewski.com.pl/karne/karne/model.pdf (access: 5.07.2018).

10 On the significance of a complete academic education of lawyers to the process of forming state elites in Germany and on the contrast resulting from a comparison of the German system with the British system – see: A. Mountford-Zimdars, J. Flood, *The Relative Weight of Subject Knowledge and Type of University Attended: A Comparison of Law Higher Education in England and Germany*, „Griffith University Law School Research" 2016, 16–18, „University of Westminster School of Law Research Paper", 2016, p. 16. A. Radwan, *Uniwersytecka edukacja prawnicza w dobie globalizacji*, "Państwo i Prawo" 2004, 11, p. 92 et seq.

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of whether there is a point of apprenticeships functioning 'designed' as they are right now. With all due respect for the tradition of the Polish two-stage model of reaching a full professional qualification, based on the university stage and the following apprenticeship, it would be reasonable to think about the relevance of this model.[11] It seems to be quite easy to criticise the model from the perspective of market expectations, with this criticism based on the following arguments:

First, the current two-stage model of legal education leading to obtaining professional qualification involves a considerable amount of time.[12] Compared to most other fields of study, becoming a fully educated and qualified lawyer takes much more time. Such a long process of education in law is virtually not found in other countries, which puts Polish graduates of law in a much worse situation than their peers from abroad – also because they start their individual professional practice later.[13]

Second, the big interest in law studies translates into a big number of law graduates being able to purse an apprenticeship as a result of more common access to the profession.[14] The principal element of the model of pursuing a legal apprenticeship is about gaining experience by working as an apprentice under an everyday supervision of another, experienced lawyer. Given the disproportion between the number of legal trainees and the number of experienced, practicing lawyers suitable to act as patrons, pursuing an apprenticeship in such a model is fiction. As a result, the objective which this model is to serve is not achieved.

When speaking about the solutions that would respond to the needs of today better and eliminate the weaknesses of the current model, it is good to consider creating a legal education system based on the following main elements:

1. Solid university studies offering students a strong academic background with its main objective to provide them with knowledge being a guarantee of familiarity of the key institutions concerning the most important fields of law.[15]

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11 See: A.J. Szwarc, *Problemy kształcenia prawniczego (wprowadzenie do dyskusji)*, "Państwo i Prawo" 2010, 1, p. 4.

12 T. Sieniow, *Modele kształcenia prawników. Wprowadzenie*, [in:] J. Krukowski, T. Sieniow, M. Sitarz (eds.) *Modele edukacji prawników. Doświadczenia i perspektywy*, Lublin 2010, p. 8.

13 Cf. M. Mroczek, *Kształcenie prawników a wyzwania współczesności*, "Na Wokandzie" 2017, 32, https://nawokandzie.ms.gov.pl/numer-32/aplikacja-i-kariera-14-numer-32/ksztalcenie-prawnikow-a-wyzwaniawspolczesnosci.html (access: 10.08.2018).

14 Statistical data proves that this is true especially for barristers and attorneys-at-law. See: B. Sitek, *Rynek pracy prawników w Polsce po deregulacji zawodów prawniczych (adwokata i radcy prawnego)*, "Studia Prawnoustrojowe" 2016, 32, p. 170.

15 E. Borkowska-Bagieńska, *Wokół reformy studiów prawniczych*, "Ruch Prawniczy Ekonomiczny i Społeczny" 2013, 75(4), p. 6.

2. Departure from the apprenticeship model of today and substituting it with an actually proven professional legal practice.
3. Leaving the apprenticeship domain to those intending to pursue litigation legal professions related to appearing before adjudicating authorities on account of the necessity to acquire specific skills and knowledge in that area.
4. Admitting an individual to legal professions only after they pass a final examination testing their knowledge and competence in a comprehensive manner – without the need to purse an apprenticeship.
5. An essential condition – formulated based on observation of the process of revising for the examination and conducting the examination – is to make the examination include both a written and an oral part.[16]

Law studies and apprenticeships and non-gowned professions

The main question asked earlier is about who those who are educated in law are to become – only specialists equipped with excellent technical skills, or perhaps representatives of modern elites as well?

The traditional system of educating lawyers in Poland is based on an assumption that the intended outcome of their education is to prepare law graduates to pursue an apprenticeship and take up one of the non-gowned legal professions.[17] This is how the curricula of the available studies are designed and how the focus is distributed. In the light of earlier remarks, it does not have to be like that. We can assume that 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.[18] Then, the studies will also address a more widely understood social-cultural need for building elites – people aware of the functioning of legal

16 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. See: broadly on the matter: B. Pankowska-Lier, *Wykształcenie prawnicze w Niemczech*, "Studia Iuridica Lublinensia" 2017, 26(4), p. 47.

17 K. Wojtczak, *O reformach studiów prawniczych i nauczaniu prawa w Polsce w latach 1918–2015*, „Studia Prawa Publicznego", 2015, 1(9), p. 66, http://hdl.handle.net/10593/17872 (access: 14.08.2018).

18 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. See: W.S. Van Alstyne Jr, J.R. Julin, L.D. Barnett, *The Goals and Missions of the Law Schools*, New York 1990, p. 11 et seq.

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mechanisms and understanding the ways in which the role, the purposes, and the position of particular system institutions shall be construed.[19]

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.[20] 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.[21]

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.[22]

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19 What is more, in some legal traditions, legal education focused on building elites is actually expressed in the form of a set of obligations defining the role of law schools in fulfilling the state-building mission and performing tasks related to ensuring that universally accepted values are respected. Like in e.g. Great Britain, see: L. Revell, H. Bryan, S. Elton-Chalcraft, *Counter Terrorism Law and Education: Student Teachers' Induction into UK Prevent Duty Through the Lens of Bauman's Liquid Modernity*, London 2018, p. 555.

20 Cf. the long-called-for solutions concerning broadening law students' knowledge beyond the content stemming only from the familiarity with legal provisions as a condition for understanding the law and being able to pursue the profession of a lawyer in a proper way – M. Safian, *Głos w dyskusji*, [in:] A. Turska (ed.), *Humanizacja zawodów prawniczych, a nauczanie akademickie*, Warszawa 2002, p. 151.

21 Cf. S. Wall, *Legal Education in France*, "The Law Teacher" 2010, 26(3), p. 208 et seq.

22 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 cosmopolitanisation 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, questions arise as to the feasibility and desirability of generalisations about law – whether these be analytical, normative, empirical or legal in nature. Such questions are relevant both to legal scholarship and legal education." Cf. W. Twining, *A cosmopolitan discipline? Some implications of 'Globalisation' for legal education*, "Journal of Commonwealth Law and Legal Education" 2007, 1, p. 13 et seq.

It is necessary to say once again that the question about the manner of educating lawyers remains, in fact, a question about the role of lawyers today. And speaking more precisely, about the contemporary role of those educated in law in the social and political system of today. 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.[23] 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.[24]

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 and 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.[25] But this does not mean they should be taught in isolation from current practical issues. On the contrary. A situation where students do not practice drawing up submissions, or where elements of the issues in question appear in lectures – given by non-practising lawyers – is proof of flaws in the existing model.[26] On the other hand, a system of

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23 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 – cf. J. Jabłońska-Bonca, K. Zeidler, *Prawnik a sztuka retoryki i negocjacji*, Warszawa 2016, p. 34 et seq.

24 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. Cf. A. Rochowicz, *Edukacja prawnicza w USA*, "Palestra" 1994, 38(7–8), p. 181.

25 B. Glesner Fines, *Fundamental Principles and Challenges of Humanizing Legal Education*, "Washburn Law Journal" 2007–2008, 47(313), p. 313 et seq.

26 There are also many examples of making law studies more practical yielding positive outcomes, by e.g. offering students a chance to become familiar with handling real cases by engaging with

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apprenticeships that does not correspond to the need of providing young practitioners with the skills required to understand the nature of the responsibilities they are entrusted with is based on the wrong assumptions as well.

Teaching based on a division into traditional branches of law and newly-forming fields of law and the legal practice of law firms

An especially noteworthy example that can serve as an illustration of 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 in particular 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, pharmaceutics, 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. The appearance of these new areas of law is a result of the interests formulated by particular groups of stakeholders and the transactional needs resulting from the necessity to address issues emerging in practice taking into account. The outcome is a growing number of regulations addressing the spheres of life not regulated so far.

There are many instances of legal issues that become new, separate fields over time. One of these issues is the right to privacy, mentioned occasionally in the course of law studies, but much less frequently than it would be appropriate given the significance ascribed to it by social expectations in recent time.[27] Until quite

legal clinics established at many law faculties in Poland. On the impact and significance of this concept in the process of education of lawyers – see: E.S. Milstein, *Clinical Legal Education in the United States: In-House Clinics, Externships, and Simulations*, "Journal of Legal Education" 2001, 51(3), passim.

27 A particularly spectacular example of the legal environment's interest in the issues of privacy in recent time is the introduction of the new act of 10 May 2018 on the protection of personal data (Journal of Laws of 25 May 2018, item 1000) implementing Regulation 2016/679 of the European Parliament and of the Council (EU) of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing

recently, it would be treated as an interesting matter discussed as part of the body of personal subjective rights subject to protection. Today, however, it may be considered a separate field of law.[28] Its scope includes the identification of problems settled in the domains of: civil law, labour law, administrative law, EU law, international law, etc. Interestingly enough, the other extreme of the same issues encompasses the right to identity and identity expression, both individual and civil[29] Contemporary practice deals with issues related thereto on an everyday basis. Especially with cases relating to disputes arising between citizens and the state. Although the science of law understands and covers these issues to a great extent, they are featured in the main canon of law teaching programmes to a minimum degree, all too rarely to address the scale of practical needs.

Another example of probably the most dynamically developing field of law is the new technology law.[30] 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.[31] 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.[32] 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. 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.[33] While these solutions are limited to simple, not too challenging activities involving, for instance, filling in contract templates with variable data, they tend to become – without much opposition or controversy – a reality that makes lawyers' work easier rather than posing

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Directive 95/46/EC (General Data Protection Regulation) (OJ EU L 119 of 04.05.2018), hereinafter referred to as "Regulation 2016/679" or "GDPR Regulation".

28 M. Krzysztofek, *Ochrona danych osobowych w Unii Europejskiej*, Warszawa 2014, pp. 31–33.

29 D.E. Harasimiuk, *Obywatelstwo UE – element tożsamości narodowej, europejskiej, czy jedynie dodatkowy status obywateli państw członkowskich?*, "Ius Novum" 2017, 3, p. 135.

30 On the emerging system of new technology law: K. Chałubińska-Jentkiewicz, M. Karpiuk, *Prawo nowych technologii. Wybrane zagadnienia*, Warszawa 2015, p. 41.

31 S. Baker, L. Akka Q.C., R. Glass, *IT Contracts and Disputes Management*, Northampton 2018, p. 20 et seq.

32 D. Szostek, K. Kamiński (eds.), *Przedmowa*, [in:] *Bezpieczeństwo danych i IT w kancelarii prawnej radcowskiej/adwokackiej/notarialnej/komorniczej. Czyli jak bezpiecznie przechowywać dane w kancelarii prawnej*, Warszawa 2018, p. XV.

33 Zob. R. Horbaczewski, *Innowacje wchodzą do kancelarii*, Lex.pl (access: 10.07.2018).

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a threat to the quality of such work and to lawyers themselves.[34] But the common belief is that it is rather a beginning of a trend that may translate into much more controversial next-gen solutions in legal practice.[35]

Another highly dynamically developing area is the protection of the most extensively understood certainty in business transactions, expressed in the security and pursuit of rights guaranteed under the principles of fair competition.[36] The issues typical to this field, forming one of the pillars of both the national economic legal order and the *acquis* of the European Union, being the subject of protection and secured by a number of institutions and offices within national and EU legal orders, are one of the most fundamental legal practices in business trading. Yet, they are not a subject of separate obligatory lectures offered in the course of the academic teaching of law.[37] The case is similar with the opposite side of issues related thereto, which is the protection of consumer rights, whose body and subjective scope extend on an ongoing basis. On account of the number of provisions and judgements passed in relation thereto on different national and supranational levels, it is one of the quickest developing branches of law.[38] Law studies offer very little preparation to practice in this area, providing only brief and random mentions of issues encountered within the field.

Another highly relevant field of law, escaping such branches as constitutional law, administrative law, international law, family law, labour law and others, is the emigration law, the significance of which will considerably grow in the future. Preparing future lawyers to function in this field of law will involve providing them with knowledge and a special sensitivity to political and sociological issues as well as equipping them with e.g. appropriate psychological competence. In today's Poland, this branch of law is practised mainly by lawyers working for

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34 T. Zalewski, *Smart contracts – czym są i dlaczego warto się nimi zainteresować?*, http://ipwsieci.pl/wpis,155,Smart_contracts__8211_czym_sa_i_dlaczego_warto_sie_nimi_zainteresowac.html (access: 6.06.2018).

35 Very broadly on the matter of the future impact of new technology on the reformulation of the current mission of legal practice and on the expected unavoidable changes in the manner in which legal services are rendered – see: R. Susskind, *Koniec świata prawników? Współczesny charakter usług prawniczych*, Warszawa 2010, p. 22 et seq.

36 C. Banasiński, *Powstanie, podstawy prawne, zakres i cele prawa antymonopolowego*, [in:] idem (ed.), *Polskie prawo antymonopolowe. Zarys wykładu*, Warszawa 2018, p. 13 et seq.

37 See: M. Kępiński, *Działy prawa konkurencji*, [in:] idem (ed.), *Prawo konkurencji. System Prawa Prywatnego*, Vol. 15, Warszawa 2013, p. 9.

38 On the corrective role of the developing law of consumer protection against unfair economic practices – see: A. Jasser, D. Karczewska, *Wprowadzenie*, [in:] M. Czarnecka, T. Skoczny (eds.), *Prawo konsumenckie w praktyce*, Warszawa 2016, p. XXXV.

NGOs dealing with migration issues. In other countries, however, it is a domain of law firms specialising in this area.[39]

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.[40] All these areas, enjoying a growing popularity among practising lawyers, form a body of knowledge that these lawyers will need to acquire only in practice. This is because university curricula offer scant information on these matters, unfortunately.

Law opening to interdisciplinarity

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. 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.[41] 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.[42] This is to mean such disciplines as: economics, finance,

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39 Cf. C. Moreau De Bellaing, *Un bon juriste est un juriste qui ne s'arrête pas au droit. Controverses autour de la réforme de la licence de droit de mars 1954*, "Droit et société, Editions juridiques associées" 2013, 83, p. 83 et seq.

40 T. Braun, *Unormowania compliance w korporacjach*, Warszawa 2017, passim.

41 On 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 – see: T. Zych, *Więcej teorii i więcej praktyki? Kształcenie interdyscyplinarne i niedogmatyczne w programach studiów prawniczych amerykańskich uczelni*, "Zeszyty Prawnicze Wydziału Prawa i Administracji UKSW" 2016, 1, p. 19.

42 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,

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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.

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. See: G.F. Hess, *Heads and Hearts: The Teaching and Learning Environment in Law School*, "Journal of Legal Education" 2002, 52(1–2).

than those connected to the institutionalised enforcement of justice. 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 actually work in their respective professions.

Lawyer – a profession of trust and the trust in law

There is one more issue to be reflected on in the light of the present discussion. This issue is about the following question: if legal professions are considered public trust professions, should the preparation to holding positions occupied as part of professions so perceived also be a part of legal education? Leaving the matter of what public trust is aside, it is necessary to acknowledge that it is a fundamental category of a constitutional nature.[43] A disputable matter will probably be the extent to which it is possible to prepare an individual to hold a public trust position in the process of their education. Regardless of the possible conclusions to be drawn from such a discussion, it is certainly reasonable to make an attempt to offer law students a preparation to pursue professions of public trust. In the light of the above, it seems essential and necessary to include at least some elements of ethics in the curricula of lawyers' education.[44] The lecture offered in this area shall be broader, with a focus on the role of lawyers in community life, on their significance and responsibilities in the public domain, etc. The current apprenticeship programmes feature classes on ethics in legal professions, but they offer little reference to issues related to the public significance of these professions as covered herein.[45] And they are limited rather to intra-professional relationships or to the relationships established with clients.

43 See: L.D. Barnett, op. cit., p. 46.

44 J. Leszczyński, *Etyka zawodowa Prawników*, "Edukacja Prawnicza" 2015–2016, 1/136, p. 26 et seq.

45 More on elements of ethics in the process of educating lawyers in the specialised American model: P. Łubieniec, *Etyka prawnicza w ogólnym i wyspecjalizowanym modelu edukacji prawniczej*, [in:] H. Izdebski, P. Skuczyński (eds.), *Edukacja etyczna prawników – cele i metody*, Warszawa 2010, p. 54.

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To conclude

1. The current model of educating lawyers in Poland, aiming to prepare law students to pursue gowned professions, based on a traditional separation into the stage of academic studies and the stage of apprenticeship, needs to be revisited and thoroughly revised.
2. The solid academic foundation, providing future lawyers with a strong theoretical background and an introduction to the most important legal institutions, shall be maintained – or even enhanced – in the present legal education.
3. At the same time, it would be good to consider a shift in the teaching focus from some of the currently taught subjects towards those that correspond more to the legal practice adopted in e.g. law firms, reflecting the actual needs in legal transactions.
4. It is necessary to supplement the programme of legal education with practical skills and abilities, as well as with elements of knowledge of other fields such as economics, political science, sociology, psychology, management science, and ethics.
5. It would be advisable to maintain a practically profiled, separate system of apprenticeship that would prepare law graduates to pursue legal professions involving the enforcement of justice as part of an institutionalised system.
6. It should be possible to allow would-be lawyers to take an examination verifying their professional competence and qualifying them to pursue a legal profession without serving an apprenticeship on a mandatory condition of presenting proof of 2–3 years of professional practice served under the supervision of experienced lawyers.
7. The profession of judge shall be given the rank it deserves by supplementing the requirements of aspiring judges with proof of several years of legal practice counted from the moment of obtaining the required professional license to be proven by having passed an obligatory final examination.