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Debate:

“Higher Education and Legal Studies at the Time of Entry of the New Law into Force” Organised by the Editorial Board of “Critique of Law” on December 5, 2018 at Kozminski University

The subject of the debate was the ongoing reform of the higher education system in Poland and the desired model of legal studies as seen by scholars. A wide array of views was presented in the 2/2018 issue of “Critique of Law” which served as the point of departure for the debate. The debate was opened by Professor Jolanta Jabłońska-Bonca; the introduction speech was delivered by KU Professor Waldemar Hoff.

The speech emphasised doubts as to the frequently invoked exceptionalism of legal sciences, allegedly local by nature, and, by extension, not suitable for internationalisation and globalisation of research and teaching. The reality of legal studies as they are offered and pursued today brings them closer to trade schools than university education, Professor Hoff said. Their programmes and the adopted ways of teaching usually do not fit the general profile of education formally declared by most schools of law for the purpose of accreditation, which makes them, in fact, mores similar to trade schools. It can be seen in particular in master’s theses and doctoral dissertations, which usually resemble magnified legal opinions embellished with footnotes. Much of the same could be said about articles published in academic journals.

Without losing sight of legal professions, it is necessary to put more emphasis on model-based teaching, which should involve demonstrating certain problems and discussing the legislative and judicial methods of solving them. In the heat of preparing student for their professional life we forget that at the time of their gradua-



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tion, many provisions of law and much of the existing case law may be obsolete. A teacher should be more of a window to what is going on in the world rather than a transmitter of knowledge that students may as well get on their own from various commonly available sources. Students need to be given the instruments of understanding and applying law and of critical thinking. Certain elements of the reform advanced by Minister Gowin take the right direction because even if they do not force us to do so, they at least expect the academia to increasingly participate in the international exchange of ideas, which is to mean to publish articles of interest to the global academic community. It requires a careful selection of the subject matter covered and publishing in the English language. With time, it will be also necessary to adjust the structure of academic publications and doctoral dissertations to Western standards, particularly by paying more attention to the proper exposition of the methodology applied.

Professor Joanna Kielin and Dr. Małgorzata Amberg-Skorzewska spoke in a similar vein, arguing for the general and canonical elements of legal education, such as Roman law, to remain present and become emphasised even more. According to the latter, Polish universities of technology have consistently abided by the said Western standards.

On the other hand, Dr. Jan Chmielewski, warned against the fetishisation of globalisation in research and teaching. While being important, it should not predetermine the choice of the explored research subject, which in turn has a profound impact on the content taught. It is important that research is a product of personal interests of the researcher. The international component is inscribed by nature in certain legal disciplines such as the EU law or environmental regulations, not to mention the theory and philosophy of law, which gives them advantage over other disciplines. As for the remaining disciplines, the only way to internationalisation is comparative research, which should not be forced. Who, asked Dr. Chmielewski rhetorically, could possibly be interested in the Polish administrative procedure? One should not be expected to go beyond the national legal system just to prove their international class. Classical works which form the canon of legal studies today were written at the time when research grants were virtually unknown, nor was there any pressure to go international. Besides, in many areas of research, the international dimension brings no added value whatsoever in terms of theory or practice. The needs of our time are met by the evolving model of legal practice with its increased stress on skills in using instruments of applying law, cases, and critical analysis of procedural issues. Starting 2019 more emphasis will be put on soft skills in professional training.

Dr. Mariusz Maciejewski said that the preparation to legal professions was the most important element of legal education for it determined the choice of legal

studies by prospective students. The position in the job market is the most important concern of both the to-be students of law and their parents. Therefore, one may assume that teaching law is going to remain inseparable from aspiring to legal professions. This practical orientation is not in the way of conducting basic research and pursuing international interests. As suggested by Dr. Patrycja Sznajder, it should be possible to reach a compromise by featuring a variety of elements in a single lecture, amalgamating different disciplines, particularly through solving cases that demand interdisciplinary knowledge. With this in view she warned against the new bureaucratic demand for academics to declare in advance the discipline of choice with far-reaching consequences such as non-recognition of publications outside of the discipline selected in such a way. Such a demand is likely to create a mental barrier against interdisciplinary approach in research and teaching.

To summarise, the debaters agreed on the matter of the need to offer students general knowledge and skills, but they were divided on the issue of internationalisation of research and teaching.