Special Workshop No. 38

**‘I Can Make a Change’: Designing New Ways for Change in a System**

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 The workshop focuses on the ‘nothing will change’ perception among law school students and legal professionals. According to our personal experiences and observations the law school students are usually adopting a disillusioned thinking pattern of ‘nothing will change’ after spending a couple of semesters in the law faculty. This thinking pattern is permeated in the personalities of the graduates and consequently the concept of ‘being a jurist’ is understood mostly as ‘being a law school graduate’. The graduates therefore are perceiving law only as a tool / occupation / technic which is necessary for maintaining their lives and knowingly or unknowingly they transfer the idea of ‘nothing will change’ to their successors. This situation prevents students from developing a moral sense of responsibility and social awareness towards socio-legal problems. In this process the ethical and social virtues and potencies of law are made invisible as well. Both jurisprudence and legal education have a gender-blind and a rights-blind interpretation of human rights. The separation of law and politics are drastic that the law school students are not able to comprehend the norms’ sources and value in a social order as well as position themselves as ‘a responsible jurist citizen’.

Legal education is a part of the university and science system as well. The debates on the role of the university in a society and the challenges that the higher education institutions are going through are affecting the design of the law schools’ curriculum and education methods.

Today’s states and the law schools are demanded to answer the question of ‘which society / whom are we educating the jurists for?’ under the pressure of internationalization and privatization of the higher education institutions –not only ‘how?’ Unfortunately not all the countries are able to reach the same sources which create an unbalanced contribution for international norm creation and policy development. Regarding this problem, the position of the jurist and the aim of the law education must be questioned as well.

With this regard all five participants in this workshop address two points. These are as following: 1. “Understanding and Exposing the Why’s of the Existing Structure” and 2. “Designing a New Structure”.

**Dr. Bilge Bingöl Schrijer**

**Social Development and Legal Education**

Social, legal and economic problems of the 21st century are in essence not different from problems in the previous centuries. Looking, for example, at the 2030 Sustainable Development Goals of United Nations, one will understand that poverty, inequality, hunger, unhealthy food, water and environment are waiting to be solved now – just as in previous times. Bearing in mind that the international protection of human rights is more institutionalized than ever before and a normative system of human rights is prevalent, and this is being taught in the law schools, the question arises: How is the legal education linked to social and economic inequality, failure of democratic systems, poverty, hunger, forced and child labor etc.? Moreover, how can the legal education contribute to reaching solutions to these ever existing problems?

The paper aims to discuss two points presented in the main session. The first one is to open a discussion on a general problem of the “nothing will change” attitude among the law school students and personnel. Why does today’s legal education react inadequately on most of the social challenges and prevent the students from developing a moral sense of responsibility? One answer on the systematic level is that the law schools reproduce the existing structure of the legal system and provide the legitimizing basis continuously[[1]](#footnote-1). This reproducing function points out the need of “problematizing the legal education reform” as well. By only focusing on reforming the legal education to make it more compatible with the “knowledge based economic systems”, “more globalized world”, “internet system” or “artificial intelligence”-which are accepted as unrivaled-legal education reforms will not be able to reach the above mentioned fundamental problems due to a problem in problematizing the legal education[[2]](#footnote-2).

Regarding the first discussion point, one has to ask, “How does a state approach the link between the legal education and solving its social challenges?” This question requires first an inquiry on the definition of the “social problem” concept of a state. Second, jurists do present themselves as the “problem solvers” of a society however, their problem concept usually refers to the conflicting interests of persons in single cases. An obstacle, which is resulting in the “nothing will change” attitude among jurists, is the lack of an adequate and bidirectional link between the state’s development planning and the legal education. The bidirectional link could enable a knowledge flow also from the law schools, where legal education is based on the value of the human[[3]](#footnote-3), to the state planning institutions and therefore, it can help to define the “social problem concept” and refer to social challenges such as poverty, discrimination, unhealthy life conditions, hunger, etc. The state development planning institutions could include a legal education policy, which is targeting those social challenges. As an example the 2014-2019 Justice Reform Strategy of Turkish Ministry of Justice is including –although inadequately- a reform proposal in the legal education stating that the establishment of legal clinics will be supported throughout the country. Yet there was not direct correlation to any social development planning. A legal education policy which is not clearly defined and not linked to social development, tends to focus only on quantitative changes and results in an unquestioned adaptation of international legal reforms to the law faculties’ curricula[[4]](#footnote-4). Additionally, economic development goals tend to find its reflections more easily in the reforms compared to social ones. A legal education reform which aims at only adopting new legal institutions, creates an unstructured ragbag-like legal system -as legal education is reproducing the legal system and the legal system produces its own legal education- which is incoherent with the social challenges such as inequality, discrimination, poverty, hunger and unhealthy life. Consequently, the jurists understand themselves as the actors of the legal system but not as its co-creators. The jurists reproduce the hierarchical relations which they have learned throughout their legal education when practicing their profession. In regard of these questions, the paper focuses on Turkey: In what scope is legal education part of the development plans of the country –or is it not? How can a link between legal education reforms and development plans be created?

The second point in the main session is discussing several ways to create an “I can make a change attitude” among jurists. The focus must lay on the procedural aspects of such a link between the social development and legal education. How can a well-defined legal education policy be integrated in a state’s development plan? The paper aims at opening a discussion on whether the academia -including students- can co-create state planning regarding social challenges and legal education policy. A suggestion to this could be a national and permanent policy unit which is working openly, inclusively and participatory.

**Dr. Altın Aslı Şimşek Öner**

**Redesigning Law School Program by Clinical Legal Education through A Feminist Pedagogy**

In a law school which follows traditional methods of legal education, students get in the habit of “nothing will change” attitude during the years they spend in higher education, especially on the subjects that existing legal system also leaves out or disadvantages members of the groups in which gender intersects with other kinds of oppression, likewise poverty, age, disability, sexual orientation, identity, citizenship status etc. Therefore a gender-blind legal system reinforces a legal education which concentrates technical/legal positivist issues in law and excludes issues related to gender.[[5]](#footnote-5)

In this context, feminist critical legal thinking which is influenced by critical legal theory and different feminisms struggles against legal and judicial passivity of courts and other authorities when dealing with gender based discrimination and violence.[[6]](#footnote-6) Historically first wave of feminist jurisprudence names and shows sexism and gender based inequalities and discrimination. Secondly feminist legal scholars start to create feminist way of knowledge in law school programs, curriculums and legal researches. This means feminist legal studies dare to make a change in the legal system in two different ways: (i) Making gender analysis of legal education and legal system, and see injustice built by male domination; (ii) rewriting and redesigning curriculums, teaching methods, attitudes towards the students according to feminist pedagogy by hearing the different voices of women.[[7]](#footnote-7)

In this paper first of all, I will analyze “male dominant” legal education which denies the truth of hierarchical structured and organized law schools[[8]](#footnote-8) in Turkish legal education. In this type of legal education, lectures are presented as they show the legal truth to students. Those lectures are based on conferences shaped by liberal legalism[[9]](#footnote-9) where students passively listen to professors who dictate a potpourri of personal bias about gender issues and clichés about gender stereotypes reproduced by law.

Secondly I will explain an alternative way of legal education formed by feminist pedagogy through methodology of legal clinics. I will focus on “Legislative Clinic” that I have implemented in Legal Clinics of Atilim University Law School during 2018-2019 Fall Semester. The legislative clinic composed of nine students where they performed as a simulation of a campus assembly. As an assembly they experienced “Something will change and I can make a change” attitude by transforming the oppression and injustice experienced by themselves and designing a policy paper[[10]](#footnote-10) for their campus about combating against discrimination based on gender, sexual harassment and sexual assault. So I will share my experience in this clinic which I have structured the curriculum, teaching methods and working principles through learning by doing/experiencing in the light of feminist pedagogy.

**Dr. Furkan Kararmaz**

**Law Faculty as a Public Forum**

The idea presented here is based on a theory of meaning. In this case, as the first step, the concept of meaning must be emphasized. When we say meaning we may mean the meaning of certain signs: The meaning of the words, the meaning of the images etc. In addition, the meaning of institutions can be mentioned. For example, we can talk about the meaning of the family, the meaning of religion, the meaning of society in general. We can critically approach or question them. Also, the meaning of the law can be mentioned in this sense. As a matter of fact, the meaning of life is an issue we eventually need to address. Of course all of these inquiries will not be handled here. The reason why I mention these is that the theory of meaning, which is at the basis of the ideas I will present here, is valid in terms of all these meanings. According to this theory, which rests mainly on ideas of George Herbert Mead, meaning is built. The meaning of these other things, like the meaning of the signs, is based on construction and consensus. Meaning is not absolute in this respect. Conventions are dynamic and always open to challenge. These challenges always have a chance to succeed.

*Understanding and Exposing the Existing Structure*

Society -as a whole with its components like law, arts, morals, culture, etc.- is also has a constructed meaning and the main construction site of that meaning is public space. Via public space, society constructs its very own meaning. If this space is closed, biased or oppressed society loses its ability to construct its own meaning. In this case society can have a meaning but it will not be ‘a society’s meaning’ it will be ‘a meaning imposed to a society’. Either ‘a society’s meaning’ or ‘a meaning imposed to a society’ is expressed basically in law. Law also gives a relative fixedness to this meaning. Deceived by this relative fixedness, lawyers tend to think that law (or laws), apart from societal context, have its own fixed meaning and the law faculty is the place to teach/learn that. This approach to law teaching sees the student as a passive recipient. In this study I problematize this approach as the “existing structure” and address it by taking it back to its fountain heads in legal epistemology. Thus, I would like to suggest that this problem and the current threats to the public sphere have certain common epistemological foundations. Besides, I will put forward the contemporary rise of massification and *gemeinshaft* mentality as strong obstacles to the law faculty being a public discussion platform.

*Designing a New Structure*

As a contribution to the ideas to implement “I can make a change” attitude, I will make two proposals, one principal and the other practical. Firstly, through the views of Aristoteles, Mead, Arendt and Sennett, I will propose that the law faculties should be considered as places where the meaning of a society’s law is constructed, not just places where a fixed meaning for the society’s law is reproduced and imposed. Unlike the existing structure, in this settlement, law faculty is considered as a public forum and students are considered as social actors. A legal education which is shaped according to this consideration could able the students to critically look at the present situation of law and society and bring forward proposals for tomorrow in a pluralistic and participatory democratic manner. Hereby, students could graduate from the faculty, not only with the knowledge of legal regulations, but also with the sense of responsibility of being a jurist citizen.

Secondly, I suggest that to achieve this goal and to maintain this achievement, law faculties should periodically measure their effects on the students' sense of responsibility and perception of justice with an inward point of view. To measure these effects, each faculty should use scales to be applied at the admission and graduation stages. By these scales faculties can generate panel/longitudinal data about the effects of their educational structure regarding this matter. In line with this understanding, this paper concludes with factor and item suggestions for scale development to measure students' conception of justice and their sense of responsibility.

**İlknur Nurcu**

**Keeping Law Education Up To Date: The Importance Of Having Interdisciplinary Classes In Law Schools**

Laws have been on the shoulders of human relations as far as they existed. Law makers always took human interactions into consideration while they were creating the rules in place. As we know, law by itself is an interdisciplinary subject which regulates human acts and relationships[[11]](#footnote-11). Unfortunately in our era, there is a massive disconnect between law, law makers, law educators, law students and other disciplines. Even though human relationships are evolving and developing day by day, law education is remaining constant by sticking with the thousands of years old traditions and studies. Nowadays the only thing effecting the curriculum of a law class is, either an amendment of the law or a political decision.

To understand where the idea of law education started from, we need to take a look the historical aspect of it. The first known law school has been established by Roman Empire at Beirut dating back to 250 AC[[12]](#footnote-12). Main purpose of this law school was teaching Roman Law and its various forms to law students. The best way to have executives to run a legal system is to educate qualifying and willing people about the laws and the application of those laws. Roman took the first step and established themselves a law school. The demand for studying at this law school was very high. But the main question here to ask is: “From where did their curriculum come from?” The answer to this question has already been given. Human relations are the main subject of the law, in which case law requires interdisciplinary approach in order to create material for its teachings. However while the amount of law schools are getting higher, the number of human related classes getting lower.

The main problem which I will be analyzing and presenting will be the curriculums of various law schools. Some of the existing law school are keeping their curriculums up to date with current developments while they create a solid bond with other disciplines. But there are not too many of these schools exist today. When it comes to law classes which are being taught, most schools and institutions are still running 100 years old classes. Sometimes they imitate other top schools’ cirruculums[[13]](#footnote-13) but when it comes to teaching, they neither have the specialized staff nor the appropriate materials. Unfortunately graduates of these schools fall way behind when practicing law, unless they develop their knowledge and skills by their own efforts. This issue becomes more prominent when we analyze and compare the curriculums of laws schools from around the globe[[14]](#footnote-14).

Later on we will continue by offerring solutions to emphasize the idea of possibility of making a change. In order to create a change, solution has to be connected to the problem. In today’s world, the people who are most connected to every day legal practices are lawyers. So one of these solutions might be giving the duty of analyzing current legal human relations to the lawyers through Bar Associations since lawyers are the ones who actually face with human relations in courts as well as in person every single day. Lawyers can create a database of types of cases and classify them under specialized legal practices such as fashion law instead of throwing it under intellectual property law. With that we can actually have a wide spectrum of specific relations in hand and the law schools can incorprate these branches of law in their curriculums. Another assignment might be given to the universities. Universities can add internship programs in their cirruculums for law students. However this internship programs should not only be limited to courts neither law offices. Law students should develop relationships with various types of companies and work in their legal departments to gain experience in their area of interest.

 When we look at the whole picture, it is obvious to see in order to keep up with new developments law schools have to teach contemporary interdisciplinary subjects to stay relevant. It is important to keep up with technological and social developments for law education. Because judges and attorneys have to be current in order to grant a verdict or defend a case without violating any human rights. To create a common language between a judge, a programmer, an artist or a Youtuber, every law school have to review and update their curriculum in accordance with current developments. This might have seem impossibe 100 years ago but today’s fast growing world, internet and globalization it’s even possible to have interdisciplinary law classes on an international scale. As we can observe through the international treaties on a government level and social media website subscriptions on people level, we are ready to accept and obey to common rules and regulations in our lives.

**Selin Samci**

**Architectural Design Standards for Law Schools**

„Architecture matters.“ The space we inhabit, shapes[[15]](#footnote-15) our thoughts. It does not only affect our thinking but also mirrors our culture, visions and the society in which our law system plays the key role. The law system and it's architecture are similar indicators of our institutional trust and companionship. A vital part in this occupies certainly the law school architecture. Considering this initial thought, the architecture of the law schools need special attention as they mirror our intellectual framework. It is our law system that reflects our institutional, social values, as architecture does. Thus the law faculties must be buildings that signify this trust while being a model of our social fabric. Although, nowadays the institutions particularly put great importance on visual communication, the design of our living space is even more important as an image. Because we identify ourselves strongly with the places we learn and live in. In order to list the arguments of a good-design for a law faculty the presentation shows up the topics based on examples.

Dealing with the context of the building is a normality in the profession of architecture. But what should our law schools represent and how should they act in the city? One new example of the Faculty of Law and Political Sciences of Turin, built by the British international architecture studio, Foster and Partners, is a building that deals with this issue. The successful order of the law-school is respecting the places of communication within the neighborhood. The volumes are dimensioned and placed well in the urban context of Turin by referring to the nearby square Santa Giulia. The half open courtyards are places of interaction and transitions, not only used by students but also by the neighborhood. The building not only stands for itself but also offers the district a recovery[[16]](#footnote-16). One must also consider that the flexibility in nowadays teaching methods is in focus, too. The architectural design is in many of the new examples supported by technical and environmental solutions including the three factors of a sustainable design: economy but above all community and environment.

In the interior providing several places of communication and interchange is advantageous, according to Robert "Bob" H. Jerry, the former dean of the University of Florida's Levin College of Law, who published an article on the topic law school architecture[[17]](#footnote-17). Within the building city like places, which provide natural encounters, should be created in order to support this atmosphere. A various range of different types of communal areas keep the life in the building vital. The productivity in such an environment increases in contrast to the one in a poor designed place.

Taking account of analyzing some case examples, the design topic of the law schools is on a basis of finding the right-balance between communal and private learning as well as the representation of the building and its overall concept of living and learning. Organizing the faculty offices and the collective places is a topic that stays in focus. In the case studies large atriums, libraries and reading rooms offer enough space to study but they are also motivational spaces that metaphorically stand for wisdom and knowledge. This effect is strengthened by natural light, as in the University of Zürich Law Faculty built by Calatrava.

1. Kennedy, Duncan, “Legal Education and the Reproduction of Hierarchy”, Journal of Legal Education

Vol. 32, No. 4 (December 1982), pp. 591-615; Flores, Imer B. “(Un)chaining prometheus: is law an applicative model?”, Problema: Anuario de Filosofía y Teoría del Derecho, no. 10, 2016; Jewel, A. Lucille, “Bourdieu and American Legal Education: How Law Schools Reproduce Social Stratification and Class Hierarchy”, Buffalo Law Review, Vol. 56, pp. 1155-1224; Çataloluk, Gökçe, “Piyasaya Hukukçu Yetiştirmek: Hukuk Fakültelerinin Sistemsel Dönüşümdeki Rolü”, Türkiye’nin Hukuk Sisteminde Yapısal Dönüşüm, Der: Ali Murat Özdemir-Muammer Ketizmen, İmge Kitabevi, 1. B., Ankara, Nisan 2014, s. 297-315. [↑](#footnote-ref-1)
2. Why legal education reform has become a problem? Who is making the legal education reform? For whom it is being made? Is it beneficial or harmful and for whom? One must focus on the answers of these questions to understand whether the legal education is designed to reproduce the already existing inequalities or not.

How will we educate our lawyers / judges? Who is a law school student and what does he/she do? What does a law school professor do? For which society (national / international / universal) do we educate our law school students? [↑](#footnote-ref-2)
3. Uygur, Gülriz, Hukukta Adaletsizliği Görmek, Türkiye Felsefe Kurumu yayınları, 2013. [↑](#footnote-ref-3)
4. As an example when the alternative dispute resolutions were accepted as distinct legal procedures in the Turkish legal system, the law schools have reacted rapidly for incorporating these new legal processes’ lectures, -similar reaction happened for the internet based commercial / work relations / new contracts, etc. However due to a more formal role of a university in today’s society, the impact resembles a one directional way which is starting from the state’s development policy towards the legal education design and therefore the law schools cannot escape from being the silent reproducers of the system . [↑](#footnote-ref-4)
5. Gülriz Uygur, Hukukta Adaletsizliği Görmek, Türkiye Felsefe Kurumu Yayınları, Ankara, 2013. [↑](#footnote-ref-5)
6. Mary E. Becker, “Questions Women (and Men) Should Ask When Selecting A Law School”, Wisconsin Women's Law Journal, Vol. 11, 1996-1997, pp. 417-430. [↑](#footnote-ref-6)
7. Carol Gilligan, In a Different Voice, Harvard University Press, 1993. [↑](#footnote-ref-7)
8. Ian Ward, An Introduction to Critical Legal Theory. Cavendish Publishing Limited, London, United Kingdom, 1998. [↑](#footnote-ref-8)
9. Catharine A. MacKinnon, Toward a Feminist Theory of the State. Harvard University Press, 1989; Robin West, “Jurisprudence and gender”, U. Chi. L. Rev. 55, 1988, pp. 1-72. [↑](#footnote-ref-9)
10. Diane Majury, “Strategizing in Equality”, Wis. Women's LJ 3, 1987, pp. 169-187. [↑](#footnote-ref-10)
11. Kim Diana Connolly, Elucidating the Elephant: Interdisciplinary Law School Classes, 11 Wash. U. J. L. & Pol’y 11 (2003), <https://openscholarship.wustl.edu/law_journal_law_policy/vol11/iss1/3> (Last Visited: February 2, 2019) [↑](#footnote-ref-11)
12. <http://www.duhaime.org/LawMuseum/LawArticle-1538/250-The-First-Law-School.aspx> (Last Visited: December 11, 2018) [↑](#footnote-ref-12)
13. Harvard Law School 2018-2019 Curriculum, <https://helios.law.harvard.edu/CourseCatalogs/hls-course-catalog-2018-2019.pdf> (Last Visited: February 2, 2019) [↑](#footnote-ref-13)
14. Another law school curriculum for comparison: University of Kyrenia, 2018-2019 Course <https://kyrenia.edu.tr/home/academic/faculties/faculty-of-law/courses/?lang=en> (Last Visited: February 2, 2019) [↑](#footnote-ref-14)
15. Blair Kamin, Why Architecture Matters: Lessons From Chicago (2001). [↑](#footnote-ref-15)
16. Roos, Kritiana, In Progress: Faculty of Law and Political Sciences of Turin / Foster and Partners, 28 June 2012; <https://www.archdaily.com/248266/in-progress-faculty-of-law-and-political-sci%25e2%2580%258bes-of-turin-comunicarch_1> . [↑](#footnote-ref-16)
17. Jerry, Robert H.,University of Florida Levin College of Law, A Brief Exploration of Space: Some Observations on Law School Architecture, Faculty Publications, 10-1-2004 [↑](#footnote-ref-17)