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Introduction

A more rational system would emphasize the way to learn law, rather than rules, and skills rather than answers.[1]

I.

Aiming to discuss both the importance of philosophy of law in legal education and the alternative methods for its teaching, Gülriz Uygur came up with the plan of organizing a Special Workshop on "Alternative Methods in the Education of Philosophy of Law (and the Importance of Legal Philosophy in the Legal Education)" for the 23rd IVR World Congress *Law and Legal Cultures in the 21st Century: Diversity and Unity* to be held in Krakow, Poland in 2007; and, Imer B. Flores turned up with a proposal for putting together the final versions of the papers into this volume. After some exchanges of ideas, realizing our shared commitment and concern, we decided to become co-editors of this venture and to prepare a foreword. It is worth to mention that the essays which comprise the book are original contributions that were presented at the workshop. Each one of the contributors played an important role in its realization and we are extremely grateful to all of them for their enthusiasm.

While discussing these subjects, we must take into account the basic philosophical problems of legal philosophy and / or philosophy of law. In order to accentuate the philosophical component, we will prefer these terms to jurisprudence and use them alternately. By the by, most of the difficulties in teaching legal philosophy are related to its wide scope. As it is well known it includes not only generic questions – and responses – about law: its nature, its relationship to morality, its role in the social structure, its validity and so on, but also a set of more specific issues – and justifications for – contracts, property, punishment and so on.

Are we as law professors expected to teach law students all of these matters or only a few selected ones? Certainly, there are many other problems connected with this issue. One of them is the existing practice of law teaching, which tends to be reduced to the concrete learning of existing and valid rules, rejecting a more abstract discussion of principles and values. Another one is related to the fact that most of the students have never had a philosophy course before they enrolled into law schools – and probably they do not like it or even consider it to be something completely useless for them. A different, but still related, problem is that reading philosophy – or philosophy of law – and thinking about it can be time consuming. All of these problems add up to making it difficult – or at least upward – to teach legal philosophy. Someone may even argue that it is not appropriate to teach a very sophisticated course and limit it to an introductory overview with the friendly advice to read more hoping for the best.

1 Duncan Kennedy, *Legal Education and the Reproduction of Hierarchy. A Polemic against the System*, 1983, 30

In order to find solutions to these problems, the workshop was aimed to determine the place of the philosophy of law in legal education and to develop alternative methods for its teaching. By the way, in the coming sections, we will not only analyze these two main themes, but also emphasize some of the alternatives and tendencies.

II.

On the one hand, the workshop intended to discuss the importance of legal philosophy in legal education. Despite the lack of agreement among law professors – and even between legal philosophers – about its transcendence, philosophy of law turns out to be a necessary part of legal education.

Actually, Kasım Akbaş, while addressing the possibilities for "distance education" in legal philosophy, concludes that although legal education is inevitably national, due to is "universal" content legal philosophers can teach the same content worldwide to the extent that it is possible to have a course with "students from all over the world and discuss the concept of law simultaneously from different points of view". Following him, we can infer that at the end learning philosophy of law is a necessity, whereas teaching national law appears to be a contingency.

Certainly, Brian Burge-Hendrix advances the thesis of the necessary educative function of law and for that purpose of legal philosophy by claiming that contrary to classic philosophers, who paid tons of attention to the "inculturation" process of citizens, contemporary philosophers "pay little or no notice to the educational function of law". Notwithstanding "law fulfils an educative role" and is consider as "a necessary feature of every actual legal system – a substantive requirement of legal efficacy." Therefore, he insists that "law is necessarily an educator" in every legal system and especially in charter societies.

Although legal philosophers apparently understand and are teaching philosophy of law along the lines of a "general jurisprudence", it is still required to appeal and teach it (sometimes) at the level of a "particular jurisprudence" – and they are actually doing so. For example, Burge-Hendrix by putting the accent on the necessary educative function of law in every legal system, and by having to appeal to charter cases in Canada to strengthen his claim is doing that implicitly. On the contrary, Ahmet Ulvi Türkbağ draws attention explicitly to the necessity of teaching legal philosophy in Turkey in the context of both its European Union candidacy and its customary or traditional laws' remnants, namely "Töre". Equally, Uygur, having in mind the conflicts between customs or traditional values and modern sensibilities, advices not only to teach them but also to do it with alternative methods.

Clearly, Flores and Uygur share a similar concern towards an adequate model for teaching-learning philosophy of law and so are committed with the necessary integration of theoretical knowledge with practical one, of traditional methods – lecture or case – with other non-traditional ones – cinema, drama, literature and the like–, and of the dominant legal approach with alternative ones. Above and beyond, it is a necessity to privilege critical and strategic thinking, dialectical and dialogical inquiry, problem-solving, and role-playing over rote memorization.

III.

On the other hand, the workshop pretended to discuss the alternative methods for teaching legal philosophy. For that objective there are – as Flores heightens – at least three main interconnected questions worth asking: (1) What to teach-learn? (2) How to teach-learn? and (3) Why to teach-learn? Moreover, there are – as he also highlights – two further interrelated queries that must also be taken into account: (4) When to teach-learn? and (5) Where to teach-learn?

Concerning to (1), both Burge-Hendrix and Flores agree that there is a tension between two models, which legal philosophers need to overcome. The former "by attending to law's formative influence and its role in inculturating citizens, and by taking note of its potential to persuade rather than merely command"; and, the latter "by shifting from merely teaching abstract and general *informative* theories to be learned and memorized to more concrete and particular *formative* problems to be argued, discussed and solved".

Additionally, following both Flores and Uygur it is neither possible nor desirable to reduce legal education to the teaching-learning of the positive law from a merely descriptive perspective but necessary to integrate an evaluative, ethical and normative point of view, along with the standpoint of the different alternative and non-traditional conceptions – and constructions – of law, including the critical approaches such as the one provided by the feminist legal theory and its viewpoint.

Pertaining to (2), although we will draw attention to the alternative – and traditional – methods in the following section, at this point we will like to stress the following ideas, both Lester J. Mazor and Csaba Varga seem to underline an historical orientation or survey of ideas, either to identify certain patterns or as an introductory move before proceeding to debates about legal thinkers or discussions of more systematic parts.

Similarly, Flores and Varga seem to underscore a problematic turn which integrates both the mere theoretical approach with a more practical one. In their view, if lawyers are problem-solvers, law students require not necessarily to be good in memorising but to become versed in "problematising" instead, by introducing in their own not only questions but also tentative answers and strategies. For that purpose empathy and appreciation of the perspective of others is simply quintessential, as Uygur also points out.

Regarding to (3), both Türkbağ and Varga insist that the main idea is to teach the future members of the legal profession to start "thinking like lawyers" and for that purpose legal philosophy must be a sort of "initiation to reasoning and arguing in / on law". For instance, Türkbağ lists as basic skills in order to be a good lawyer: an ability to master the basic norms of the legal system; a capability to connect both facts and norms; a capacity to interpret them; a facility to do legal reasoning; and further faculties required for legal practice.

Notwithstanding, as Uygur indicates "a purely technical and instrumental education is not enough to improve the desired capacities of the students" and hence it is essential to "integrate ethics into the law curriculum." Similarly, she insinuates that since "thinking like a lawyer also means learning to think in the male perspective" it is also fundamental to integrate "the feminist perspective".

Relating to (4) and (5), the scientific-technological revolution has increased, through the use of "computers" and "internet" or "world wide web", the possibilities and potentialities for teaching-learning law, in general, and philosophy of law, in particular, to the extent that the answer is anytime and anywhere, as Akbaş concluded in the case of "distance education", and as Vladimir Lobovikov suggested by "computer-aided legal education".

IV.

In the quest for alternative methods for teaching legal philosophy, the Law & Literature movement has provided an appropriate and extremely helpful approach. As Uygur recalls "literature promotes our sensitivity by helping us develop our capacity for empathy." Furthermore, the movement "has served to show how literary activity is an integral part of the central activity of law – the interpretation of legal texts (case opinions, statutes and regulations). Literature has the potential to teach lawyers how to write, read and speak more effectively."

Along this lines Luís Antônio Cunha Ribeiro argues that "concerned about the lack of abstract thought abilities of the students, the great effort they had to employ in order to follow the philosopher's thought" and "[g]iven the general difficulties of the students on developing the subject abstractly, the use of visual arts [is or must be] considered". Consequently, he has found cinema to be an effective strategy for education of philosophy of law, as long as the selection of an adequate movie or set of movies is made.

If cinema, as related to literature, can be used to teach abstract themes in a more concrete fashion, nothing precludes that drama can also be used to teach those and even other topics with further advantages, not only as a reading material but also as a device to develop empathy, as Uygur shows. Correspondingly, Eylem Ümit & Zeynep İspir bring to light that "the lack of awareness of students to the current problems of law and society" and the fact that "[t]hey were looking to the social issues from a narrow point of view" required the implementation of drama to improve their awareness and to increase their empathy by "putting them into somebody else's shoes". In addition, drama as a form of role-playing has a great potential to develop language and communication abilities, problem solving skills, and enhance creativity.

Similarly, Mazor accentuates the importance of role-playing, but for a different reason. In order to enter into a meaningful debate with the leading thinkers in the field at a time, students must get acquainted first with their thought – or at least with its inner logic – and represent them in order to make that possible. For him "the representative role-playing method seeks to overcome the limited range and depth of the viewpoints that the students are capable of voicing on their own." Likewise, students not only sharpen their skills in critical reading but also develop rhetorical skills, engage in strategic and tactical thinking, learn what is entailed by representing views other than their own.

Finally, in a very provocative paper, Lobovikov argues that the Law & Artificial Intelligence movement tends to construct and develop expert systems to support judicial decisions, but suggests that the development of the algebra of natural law

– and the mathematical simulation of its legal reasoning – provides a basis for computer-aided law-making and law-education, and hence can play an important role in the teaching of legal philosophy at law schools.

V.

Ultimately, we will like to call attention to some common trends. Among them, the great importance of reading, both in itself by the raising of inquiries and formulation of dilemmas, and by the rising of reading – and discussion – groups or seminars, is pinpointed by Flores, Mazor, Ribeiro, and Varga. Besides, a general problematic turn, Flores, and Ümit & İspir, proposed specific problems to be studied, such as "abortion" and "adultery", respectively.

Most of the authors, including Flores, Mazor, Ribeiro, Türkbağ, Ümit & İspir, Uygur, and Varga, are sharing their experiences on teaching philosophy of law in their home countries – and even abroad. Thus, their narratives reinforce the conclusion that despite the local features of each country, the problems that legal philosophers face while teaching philosophy of law are more or less the same all across the board in both sides of the Atlantic and of the Equator, *i.e.* East-West and North-South. What's more, due to globalization and to the blurring of national borders or confines, law is not any longer what legal positivism used to say it was and as such the teaching-learning of legal philosophy is or can be set free.