



Rechtsgeschichtliche Vorträge/  
Lectures in Legal History

Relationship between state-, political- and  
legal sciences in education of law

ANDRÁS KARÁCSONY

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## Relationship between state disciplines, political- and legal sciences in legal education

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In my lecture, I examine the relationship of three disciplines – law, state-, and political sciences –. The approach to be used is not theoretical: basically, I intend to highlight historical aspects concerning higher education instead. I would like to point out the changing position of state-sciences compared to legal sciences in the twentieth century, which lead to the appearance of political sciences.

Owing to the fact that academic sphere is a field affected by many external factors, I also refer:

a, First of all to, the historical connection of law-, state-, and political sciences since universities are not merely training institutions (contrary to elementary schools for example) but special educational entities. Their tasks and profiles also include scientific research, the results of which are transferred toward the audience in the frame of higher education.

b, Secondly, to certain social-, political factors, that is to say the major characteristics of the social- and political environment of the University. The output of legal training – unlike natural sciences – is not restricted to creating scientist, but ensures the recruiting of new social strata which plays a key role in shaping the everyday life of citizens. This crucial role is underlined by their activity in the legal as well as state institution. Social and political demand, therefore, affect legal training in a significant way. Certainly, creating scholars is also an important task, however this process is more likely to take place at postgraduate than graduate level. Moreover, I also have to add that law degree serves as a general qualification in a sociological sense; those who finish their studies at a law school, are in an advantageous position to find a top status in different spheres than the rest of the students after graduating. One can have the carrier of a leading journalist, politician, manager or editor.

The fact that legal sciences enjoyed priority and played a key role in the profile of our Faculty is so obvious that I do not have to consider the details. We can examine, however, – and I am going to make an attempt to do that – the

changing role of state sciences which are closely linked to sciences of law. Furthermore, I will give you a general outlook on the Faculty of Law, by focusing on three stages; firstly, the early phase of the twentieth century; secondly, the period after the World War II, finally the era starting from the mid-eighties.

#### A)

Education of state sciences in the case of the Faculty of Law started in 1777, by the establishment of the first department, the Politico-Cameralis Department. The subject of the education was later called public administrative law. Cameralistics had been built on upon German territory, which clearly exemplified Hungarian legal education and was shaped by elements imported from German academic and higher educational traditions. The demand for professional civil servants created the need for the politico-cameralistic discipline. Its themes included economic policy of the state, financial aspects and budgetary- in a narrow scope this discipline, this department prepared professional civil servants to be able to fulfill directive tasks. In the beginning of the twentieth century the most prominent professor was Győző Chonca, an instructor of constitutional law, as well as public administrative law in the frame of his "Politics" course. Although the subject of state sciences had been changed in the meantime, the major goal remained the same; to provide training opportunity for new civil servants. Certainly, not all law students became civil servants, the majority worked as professional lawyers after finishing their studies. The above mentioned career opportunities had been supported by the original bifurcation of law training; in the first half of the century both the degrees of law sciences and state sciences were provided by the Faculty of Law. Education was unified, however, students had the opportunity to choose whether they take final exams in sciences of law or state sciences. Those who were planning to work as civil servants had to obtain a degree in state sciences under certain provisions of law. This precondition definitely, exaggerated the role of state disciplines. This can also be exemplified by the establishment of the the independent Institute for Public Administration, which operated within Law Faculty during the interwar period. Research level of the Institute was outstanding, and I also have to add that by the efforts of its director, Zoltán Magyary, besides the traditional German orientation, French, English, American research results were fostered and implemented. This lead to the weakening of German scientific hegemony in Hungary. It was not only constitutional law, public administrative law, and financial law which belonged to state disciplines, but theory of state appeared as an important area within the field of state sciences.

At this point I have to provide a brief historical explanation. At the beginning of the twentieth century German law education was dominated by positive law. This – as a result of the traditional German orientation – obviously, affected Hungarian state- and legal thought. Due to the limits of this lecture, here I would not go into details and explain the diverging positivist concepts, merely refer to one significant idea. What is considered to be valid law? – According to the positivist approach, this question can be determined by the law itself. At the end of the nineteenth century and the beginning of the twentieth century – except from Britain –, state institutions (legislature, head of state, head of the executive) were empowered by law. Consequently, in focusing on valid law, instead of focusing on judicial decisions, we have to turn to state institutions of power. By drawing the final conclusion from this theory Hans Kelsen pointed out that law and state are the same entities. Kelsen, at that time, was one of the prominent law scholars, whose main works and activity included, legal philosophy, theory of state as well as international law. His ideas had considerable effects on the wide public. The idea to equalize law and state resulted in ambiguous effects concerning the position of disciplines dealing with state. It has partly increased the importance of the aforementioned disciplines, consequently they emerged as equal as the sciences of law, partly discredited them by the preconception which emphasized the integration of state to law.

#### B)

After World War II. the role played by state-oriented disciplines in law education has changed in a significant way as a consequence of the new political era. On one hand, concrete educational policies directly affected law education. On the other hand, as a result of the restructuring of state institutions and public administration, new demands emerged. The functional change of state-oriented disciplines can not be labelled as dominant or marginal compared to law education: the picture is more complex. I attempt to clear the picture. In 1945 the law, which made state exam in state disciplines a precondition to any position of public administration, lapsed. Strictly linked to this event, from 1946 the distinction between law and state doctoral qualification has been abolished; state disciplines has been integrated into unified law training, graduate students have been provided law degrees. This fact made the future and position of state disciplines much more difficult, from this moment it was impossible to reach a doctoral degree in that field. In addition, the academic Institute for Public Administration, which integrated high-level experts, ceased. We have to note that interestingly, at the same period, in the late 40s, the activity in this field outside the university territory became vivid, huge number of drafts were published concerning the reform of Public Administration.

The establishment of a new public administration system resulted in a need for significant number of civil servants, consequently the weakening tendency of state-oriented disciplines stopped, and from 1948 the system started to change. It was a task of the Law Faculty to train experts in that field. The new bifurcation re-appeared: parallel to legal education, students could finish their studies in the field of public administration. This change is clearly demonstrated by the alteration of the faculty name: „Faculty of Law and Public Administration”. This lasted only for 5 years. Since 1954 there has been a unified legal training, public administration education has been integrated into the College of Public Administration.

If we examine the importance of the different subjects in the light of the potential degree the post- Second World War period can be described as an era in the frame of which the scope for state disciplines was limited. This statement can partly be ambivalent, therefore in order to have a clear picture, we have to examine the position of state oriented disciplines. Let me start by saying that we have to handle the theoretically and practically oriented state disciplines separately. The later – in my opinion – includes the subjects of public administration and financial law. An explanatory reason for the previously mentioned separation can be that their emergence in legal training had been diverging.

Let us consider first theoretic state disciplines. Seeing that from 1948, ideological training was a basic goal of socialist societies, the subject dealing with political-ideological themes played a central role. In the frame of legal training this meant that:

- To substitute „politics” and „philosophy of law”, by two new subjects; „State-studies” and „Theory of state and law” were introduced (this later subject was eliminated within a short period). This change also affected the structure of the different departments. The previously separated and independently functioning Department of Politics and Department of Philosophy of Law were succeeded by the Department of Theory of State and law.

- Behind the subjects representing marxist ideology (dialectic materialism, historical materialism, political economics, scientific socialism) new departments were established, this symbolic decision exemplified political determination of legal training during the old regime. Two among the above mentioned subjects depended partly on state oriented discipline; historical materialism and scientific socialism.

- Within the Department of the Theory of State and Law a separated Sociology group came into existence, providing the students with the subject of

Sociology. This new entity did also focus on certain aspects of the institutional framework of the state.

- Constitutional law education has also been modified. The altered name of the Constitutional Law Department symbolize the new structure: until 1950 its name had been Public Law Department, from 1952 Hungarian State Law Department, finally, in 1989 it was called Constitutional Law Department.

Theory of state became a dominant discipline in legal education, however we have to add that it has primarily focused on transferring values, and shaping students ideological views, rather than describing the operation of modern state, which appeared in the Western Europe. At least this was the case until the mid-80s. Now, I am going to describe the changes which began in that period, and finish my lecture.

I previously mentioned the importance of the separation of theoretic and practical state disciplines.

I have dealt with the theoretic part, at this stage I also have to analyze practical state disciplines despite the fact that this area is far from being my research field. At first glance, I would say that the position of practical state disciplines has become stronger (this is exemplified by the emergence of the independent Financial Law Department for example). However, when we consider the themes and substance of the discipline, we can observe a significant change in favor of the sciences of law. These subjects basically focus on the legal regulation of the state budget, institutional framework, financial policies, operation of public administration that is to say, instead of stressing and describing political-sociological aspects and power-relations, they transfer knowledge concerning sciences of law.

C)

The third stage can be labelled as the emergence and dominance of political science, which shows the loss of popularity of classic state disciplines. This process began in the early '80s and were strengthened during the '90s. In the beginning of the '80s, far from being a manifest discipline at the university education level, political science became advocated discipline in the frame of the scientific discussions, as the demand to turn toward a new approach had become mature. These discussions took place in scientific research groups, in the columns of social science journals, moreover special volumes were published. With the exception of theorists working in the field of state disciplines, who recognized that political science can „steal” the subject of state discipline, the majority of the scholars supported the priority of political science

at that time. Both disciplines dealing with state and political science analyze politics, however the method and approaches to be used diverge. To simplify the difference we can observe that while state-oriented disciplines focus exclusively on the wide range of aspects relating to state, and underline the importance of legal regulation, political science goes further as its subject also includes other dimensions as political parties, various organizations, civil society. Moreover, it analyzes the sociological aspects, power relations of the aforementioned elements. Political science depends on sociology, state disciplines on sciences of law.

The debate between state-oriented disciplines and political science can be interpreted as the debate between two different scientific traditions. State-oriented disciplines have been built upon the „German school” and due to the Hungarian political thought’s commitment to German traditions it was obvious that Hungarian state discipline was dominant and had an important effect in Hungary. On the other hand political science has been representing anglo-saxon dominance, and its appearance in Hungary indicated that the effects of German political thought lost its previously dominant position. This was also a sign of globalization of the Hungarian researchers’ interests.

Merely, the internal changes within social sciences would have not necessarily meant a change in the structure of legal education. A crucial step which stimulated the above-mentioned change and contributed to the emergence of political science education in our Faculty, was the establishment of the Political Science Group in 1984, which was reshaped and became an independent department, the Political Science Department in 1989. From 2001 up to this moment this has been called Institute of Political Science. From 1984 the activity of the Political Science Group was primarily linked to legal education, and owing to inter-university cooperation, students from other universities can be registered and participate in the classes provided by the Political Science Department. A further important decision was the introduction of political science as a separate educational discipline; Since 1997 students have had the opportunity to be full time students of political science.

Currently, there are two mainstream concurring directions within Hungarian political science. One of them considers political science a discipline closely linked to philosophy, political philosophy, the other approach stresses the institutional framework and legal environment of politics and depend on sociology and sciences of law. In our faculty this second direction has become dominant, that is to say; students have to face exams from legal subjects too (Constitutional law, History of the Hungarian State and Law, Public Administrative Law, International Law).

Back to my original question, I am going to give you a summarized picture about the education of our faculty since the mid '80s:

- First of all, the traditional state-oriented discipline is present in the form of a single- semester course, state disciplines are dominated by the special law areas and subjects.

- The newly established political science weakened the position of state disciplines in two ways; on one hand it is a rival to state-oriented disciplines, on the other hand it depends basically on sciences of law instead of state disciplines.

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Relationship between state disciplines, political- and legal sciences in legal education

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