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Implementing Legal Information Literacy: A Challenge for the Curriculum

BEN BELJAARS*

Dutch law faculties usually change their curriculum due to pressure from external factors, such as inspection reports, accreditation procedures or educational innovations dictated by general university policy. Course subjects are changed each semester or academic year to bring them more into line with each other. Sometimes there are substantive reasons for change, such as the imposition of an international perspective. Courses are seldom

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altered in response to internal curricular pressure, as this leads to tension in personal relationships.

The policy on appointing chairs is another thorny issue. Occasionally the need to change or adapt the curriculum arises from both external and internal developments. Legal information skills have remained a somewhat neglected part of the curriculum. As a branch of academic or legal skills, they exist independently on the periphery. University libraries, which are becoming increasingly adept at Information Literacy, are digitalizing and globalizing at an accelerating rate. Thus, when necessary, legal degree courses must catch up and revise legal curricula in this regard.

1. Introduction

Law faculties currently pay scant attention to legal information literacy in their curriculum or lecture programme. The application of specialized information literacy skills is taken for granted in degree courses and its basic principles are dealt with summarily, if at all. In many cases, it is left up to university libraries to provide courses in this subject. They, at least, have moved with the times, and extremely illustrative courses can be downloaded from their websites.¹ The question is, however, whether 'information literate' students will be created in this way. Only a tiny percentage of law undergraduates actually visit the library. This is because standard legal subjects hardly ever include assignments that require students to actually set foot in the library. This reluctance on the part of lecturers to program such assignments is understandable, because anyone who sends hundreds of first year law students to the library will live to regret their actions.² Nevertheless, it is more important than ever for university courses to coach students on how to acquire skills in general and legal information literacy skills in particular.³

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¹ I would like to thank G. Goris, Deputy Librarian/Head of Documentary Information and E.R. Winter, Specialist in Law, from the University Library of Erasmus University Rotterdam for their comments.

² This may result in damage to the collection.

³ Strong, a lecturer in law at Oxford and Cambridge, developed a separate method (CLEO = Claim; Law; Evaluation; and Outcome) which combines legal writing skills and legal literacy. Also see: <<http://www.oup.com/uk/orc/bin/97801-99287550/>>. Strong stated that 'Universities believe that students should have already acquired basic instruction in good writing by the time they arrive at university and the duty of a university lies in teaching the substantive law, not in teaching

To do so, collaboration between faculties and libraries is called for. Several university libraries and law faculties have already set up joint programs to acquaint both bachelor degree and masters degree students with this specific form of legal knowledge management.⁴ It is a hesitant start to a substantively articulated educational modernization that truly takes competencies seriously by acknowledging that it is necessary to practice knowledge skills. Recognition of the need to take legal information literacy seriously is particularly relevant at the moment, especially in relation to narrowing the gap between university and professional practice.⁵

2. Information literacy

Introducing legal information literacy to the law curriculum also raises the question: what do we want to achieve? What are the objectives teachers use to achieve educational goals? Several interrelated questions are connected to the final goal that we are striving towards: what do students need to have learned by the end of their degree course? We hereby refer specifically to the question: which legal information literacy skills do students need to possess before they can start working in their chosen profession?

Standards for information literacy skills in higher education have been developed in educational literature. A complete strategy has not yet been worked out, but the basic principles have been expressed as general norms. The first step consists of defining the term *information literacy*.⁶ Various study groups are researching the material and agreeing on definitions for the

writing and analytic skills'. The situation in the Netherlands is identical. S.I. Strong, *How to write law essays*, Oxford: Oxford University Press 2006, p. 2.

⁴ Knowledge management is generally defined as hype. Nonetheless, jurists can pick up useful information from theories that have taken root in economics. See M.H. Huysman's inaugural speech, *Zin en onzin van Kennismanagement*, Vrije Universiteit Amsterdam. It was delivered on 12 October 2006 when accepting the position of professor of Knowledge & Organisation of the Faculty of Economics and Business Administration at Vrije Universiteit Amsterdam.

⁵ A.I.M. van Mierlo and R.W. Polak, 'De Brauwertij: de eerste stap naar een volwaardig professioneel bestaan', *AA* 2006, p. 145-147.

⁶ For a historical explanation and the development of the term 'information literacy', see: M.J.P. van Veen (ed.), *Door de bomen het bos. Informatievaardigheden in het onderwijs*, Heerlen: Open Universiteit Nederland 2005, p. 17 f.f.

use of information literacy skills in higher education. The LOOWI's⁷ Working Group on the Standardization of Information Literacy has drawn up the following working definition:

information literacy is a set of abilities that enable individuals to recognize the information which is required to satisfy the need for information, and to effectively and efficiently locate, evaluate, and use the required information and translate it coherently into a product which they can then present and disseminate.⁸

Following on from the aforementioned basic premise, a Belgian university project arrived at an even more specific definition of the term: information literacy means all knowledge, insight, skills and attitudes needed to establish information needs, locate relevant information efficiently and evaluate and use information correctly and effectively. As the term 'information literacy' suggests, this is not just a matter of skills, but also a competency.⁹

This competency is supported by the adept use of information technology. The most important thing is to have a critical attitude'.¹⁰ A number of university courses have started to use these normative basic principles and have drawn up competency indicators to concretely express 'competencies which students must develop to reach the norms'.¹¹ The resulting matrix is then linked to the formulation of concrete open learning objectives. It is thought that those determining the course content can make an independent decision on the basis of the open learning objectives

⁷ LOOWI is the Dutch National Platform for Education on Academic Information (*Het Landelijk Overleg Onderwijs Wetenschappelijke Informatie*); see <<http://www.loowi.org/>>.

⁸ *Informatievaardigheden. Normen, competenties en gedragsindicatoren voor het hoger onderwijs*. 2nd draft Dutch translation of the ACRL information literacy norms specifying primary responsibility and priorities. Working Group for the Standardization of Information Literacy, LOOWI, 10 March 2005.

⁹ P.R.J. Simons, *Competentiegerichte leeromgevingen in organisaties en hoger beroepsonderwijs*, in: K. Schlusmans, R. Slotman, C. Nagtegaal and G. Kinkhorst (ed.), *Competentiegerichte leeromgevingen*. Utrecht: Lemma 1999.

¹⁰ *Normen voor informatievaardigheden in het hoger onderwijs*, Association University of K.U. Leuven. Fund for Development of Education Information Literacy Project, April 2006, pgs. 3/9 and 4/18.

¹¹ Association University of K.U. Leuven. Fund for Development of Education Information Literacy Project in 2006, p. 3/9 (see note 10).

concerning ‘when and in which parts of the degree course, they can tackle this aspect of information literacy’.¹²

What does the idea of competency entail with regard to information literacy? Dutch and Belgian information literacy experts promote a single idea as the standard. The advantage of this is that degree courses can communicate with each other and build on each other’s knowledge. The basic premise is that university students should have attained six norms by the end of their course. The formula states:

an information literate student:

- acknowledges the need for information and can determine the nature and extent of the need for information
- finds the required information effectively and efficiently
- critically evaluates information and their information search process
- manages collected and created information
- applies old and new information to compose new concepts or to create new insights
- uses information with insight and acknowledges cultural, ethical, economic, legal and social questions related to information use.¹³

These are abstract standards which must be made more concrete in clear, recognizable learning objectives within the degree course. The achievement of this goal can be measured by the extent to which the course is able to state which ‘sources, research methods, search techniques, ICT techniques and reference systems’ are relevant within the course.¹⁴ Both working groups have attached competence indicators to the standards, to create a standard matrix at learning objective level.¹⁵

¹² *Idem.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ The standard mainly refers to the ‘Australian and New Zealand Information Literacy Framework: Principles, Standards and Practice (Second edition)’ and the work of the Australian and New Zealand Institute for Information Literacy (ANZIL) and the Council of Australian University Librarians (CAUL). They, in turn, have drawn from: ‘Information Literacy Competency Standards for Higher Education’ by the Association of College and Research Libraries (ACRL). In the Dutch speaking context, use is made of A.K. Boekhorst’s Dutch translation of the ACRL *Information Literacy Competency Standards for Higher Education*.

The Faculty of Science at the University of Utrecht recently carried out an information literacy project which attempted to create a common framework for the skills curriculum.¹⁶ One of the premises of this document is the definition of the concept of information processing. Their definition is clear in its conciseness:

Information processing includes all skills that involve the collection, selection, processing and quality assessment of information and information sources'. This includes using the library; selecting primary and secondary literature; dealing with computerized search systems; searching for information online; critically reading and analysing scientific publications and assessing the quality of the found information.¹⁷

The combination selected by the project group is also relevant for the skills curriculum for lawyers, because in addition to library skills, it also covers substantive disciplinary skills. This is precisely the interface on which significant cross-fertilisations arise for didactic experimentation. Locating and processing information can be combined in active teaching methods which may contain both individual and guided components. These teaching methods must be organised so that students acquire actual knowledge while learning to use both the traditional and digital libraries.

3. Academic and University Skills for Lawyers

Self-motivation is central to the study of law. Traditionally, lecturers have tended to appeal to the law students' own sense of responsibility to shape their academic training at university. That is a good thing in that it can lead to students developing many skills themselves during their study. But, due to the condensed nature of the curriculum and the consequently low number of contact hours, this principle has come under pressure, a fact which has largely gone unnoticed. Acquiring skills takes time, more than is allowed for in timetabling the course, because in addition to legal information skills, there are also general and specific *academic* skills that commonly emphasise one training aspect.

¹⁶ S. Wils, Ja. Nab, M. Bastings and A. Meijer, *Een gemeenschappelijk kader voor het vaardighedenonderwijs in de bacheloropleidingen van de faculteit Bètawetenschappen*, EMP project, January 2006. The subtitle 'Ontwikkeling van leerlijnen voor academische vaardigheden in de bacheloropleidingen van de Bètafederatie', which can be translated as 'Developing guidelines for teaching academic skills in science federation bachelor courses' makes it clear the main educational thrust is focused on coherency in future literacy education.

¹⁷ Id, p. 12.

Verbal and written language skills are particularly important for lawyers. Whilst studying for a law degree, academic skills are often ordered into categories that are denoted as 'developing intellectual independence', 'developing critical and creative abilities' and 'developing competence in independent academic practice'. University skills are more likely to be attached to particular domains, are of a more specific nature and can even be subdivided into sub-disciplines. Private lawyers specializing in corporate law develop different skills to administrative lawyers. It is important for all lawyers to develop their analytical skills and hone their abilities to view matters critically. In addition to this, it is especially important for lawyers to learn how to handle ethical, social and political problems together. Substantive domain knowledge of the law and these meta-legal disciplines belong to the most important parts of the legal curriculum. In mutual relation, they constitute the central objectives of the legal degree course.¹⁸

In educational practice, academic and university skills are not, or are barely, distinguished from each other. To a certain extent, however, they are, inarticulately interwoven with the practice of the legal skills mentioned here. The way in which prospective lawyers will have to use information requires much more adjustment to the legal curriculum than was previously the case. Lawyers must develop instrumental, structural and strategic skills if they want to be able to compete in the professional arena with related disciplines (economists, business experts, administrators, information specialists).

4. Legal Skills and Legal Information Literacy

In practice, both of these skills often run parallel with the university study. They are interwoven with each other and are sometimes difficult to distinguish. It is commonly supposed that legal information literacy will automatically be included in the didactic concept used by faculties for the teaching of legal skills. Although the context of *legal skills* is broader than that of *legal information literacy*, there is an increasing need to treat legal information literacy as a separate component.

The hypothesis of an integrated approach rests mainly on the assumption that students will pick up legal information skills by themselves. In practice, this has turned out not to be the case. The current generation of

¹⁸ M.G. IJzermans and G.A.F.M. van Schaaijk, *Oefening baart kunst. Onderzoeken, argumenteren en presenteren voor juristen*, The Hague: Boom Juridische uitgevers 2003, p. 12-13.

law students has well-developed computer skills and internet literacy, but is less adept at the more specialised academic use of information sources. In view of current library developments, the availability of information in specialized data banks and the expansion of the total supply of legal information, it is desirable to make a real distinction between legal skills and legal information literacy. We can distinguish between the following legal skills:¹⁹

1. using legal sources
2. analysing legal problems within an area of law
3. the ability to establish a normative framework for legal problems
4. the ability to compare different systems of law
5. the ability to assess academic legal information.

Classification according to the bachelor/master structure seems to signify a rational education structure, but this cut-off point is less relevant in the case of legal degree courses with a civil element which can only be obtained during the master. The educational theory division in the legal curriculum must be reached much earlier than the official organization would suggest. After two and a half years of a bachelor program, law students should be capable of transforming basic skills into academic skills. In the first two years – bachelor 1 and 2, the emphasis should be on the following core skills:

- the ability to classify subjects into different branches of law
- identifying and classifying legal sources
- using statute bundles; the ability to make a formal analysis of rulings
- analyzing and problematizing legal questions
- learning to deal with legal academic information;
- the ability to generate simple and complex case solutions
- learning to analyze facts, and consequently to distinguish legal questions, and finally
- mastering the plagiarism rule.

¹⁹ See, for example, the extensive summary in articles 8 and 10 of Tilburg University's Education and Examination Regulations for Law Faculty bachelor courses – Academic year 2006-2007 (*Onderwijs- en examenregeling van de bacheloropleidingen van de Faculteit Rechtsgeleerdheid – Collegejaar 2006-2007 – van de Universiteit van Tilburg*). These legal skills were defined earlier in the Attainment targets for the Bachelor Phase (*Eindtermen bachelorfase FRW*) defined by Tilburg University's Law Faculty in 2001.

In the last two years of the course – bachelor 3 and the master year – the focus should be on writing a thesis independently. One of the crucial requirements for this is the ability to actively apply research skills. In the current curriculum, students/researchers usually have to learn to master information sources by themselves. Legal degree courses seldom offer specialist tuition modules for writing academic texts, and if they do, the emphasis is generally on learning verbal and written language skills for professional practice. No wonder then that there has been an increase in the number of training courts. The skills that are practiced there are essential for lawyers, but in the light of the deficiencies of the university study, they are insufficient to complete the training of the predicate ‘academic’.

The development of the digital library offers an extraordinary stimulus for taking a fresh look at the legal curriculum. The curricular element of legal information literacy demands more from faculties and libraries than they are able to generate separately. First, legal literacy must be harmonized with the legal skills that students must master in any given phase of their study. Only half-hearted inventories have been made of the informative learning objectives that must now be reached on legal degree courses. Second, the texts and teaching materials used in legal degree courses were not designed for teaching legal literacy.²⁰ There are various faculty ICT courses covering the use of legal literacy within an electronic environment, but they are not usually part of the faculty’s curriculum and do not possess a didactic legal profile.

As mentioned earlier, legal degree courses can be divided into two substantial areas of skills focus. Basic legal skills are taught in the first two years of the study, whereby the emphasis at the beginning of the study is on using legal skills. Only in the second phase does focus shift to legal information literacy. There is a similar pattern of skills teaching in the curricular structure of practically every faculty. ‘Legal information is usually addressed far too late in the curriculum, generally not until *‘Learning to deal with legal academic information’*’.

²⁰ Attention was primarily focused on teaching argumentation skills. See the work of F.H. van Eemeren, *Argumenteren voor juristen. Het analyseren en schrijven van juridische betogen en beleidsteksten*, Wolters-Noordhoff: Groningen 1991. Many more recent works still do not refer to legal literacy skills. See, e.g., the excellent book by B. Verheij, J. Hage, T. van der Meer and G. Span, *Vaardig met recht. Over casus oplossen en andere juridische vaardigheden*, Den Haag: Boom Juridische uitgevers 2004.

The hype surrounding competency education in higher education has resulted in academia becoming obsessed with practicing competencies. This is no bad thing for a legal study that must encompass both theory and practice, but the balance has now tipped over too far to one side. Exercising practical skills must not supplant mastering academic skills.

One of the reasons why the legal education system has, until recently, neglected to pay sufficient attention to legal information literacy is the specificity and singularity of general legal skills. The complexity of the case, the important place that case content has in the tenets of the law, and the language used in the accompanying formulas ensure that practically all available learning content is attuned to this.

Until recently, in the didactic of legal education, legal skills formed the core of the skills programs. A lawyer who cannot read and understand a judicial decree or ruling cannot be called a lawyer. It is generally assumed that a law student who can use a statute bundle, but is less adept at deciphering library data banks and the related use of search strategies will always be able to receive extra training on the job. A turnaround in thinking, or in other words, increased focus on combining the use of legal skills and legal information literacy skills within the curriculum, is clearly necessary. In view of the increasing complexity of the available information, law students should spend more time in mastering the constantly changing options of the digital information world. If these information skills are to be mastered, the teaching of law must turn in a new direction.

5. Curriculum Implications for the Practice of Legal Information Literacy: Is it Necessary to Appoint a New Chair or to Create a New Type of Master Course?

Many university libraries have a modulated course structure that can be consulted as online courses on the library's website. For example, the university library of the Vrije Universiteit Amsterdam has various information literacy courses at different levels. The modules are clearly structured and match the level of computer and internet experience of prospective students.²¹

²¹ Level A modules are: What is academic information? How do I assess the quality of information on websites? How do I combine search terms? How do I decipher a reference? How do I find a book? How do I find a magazine article? How do I find catalogues, e-journals and files? A few examples:

- VU: <http://webcursus.uvu.vu.nl/cursus>,
- UvA: <http://www.uba.uva.nl/hulp/hulp.cfm> en
- http://www.tilt.ihol.nl/htmlfiles/overig/ter_informatie.html,

University libraries are clearly making an effort to catch up. Digitization is the engine driving many innovations. The forms of cooperation between faculty and library vary in character, and tend to occur more on an incidental basis than be embedded in the structure and curriculum. The world of the electronic library has scarcely penetrated legal education. How can this be changed in the short term?

In most cases, a didactic concept of appeasement is used to include skills in general and literacy skills in particular in the curriculum. The university legal curriculum is a course/ subject curriculum. Traditionally, skills are divided between subject and legal areas. Educational practice therefore meanders between a rational inverted funnel model, in which all skills are dealt with on paper, and an isolated course module at subject level. It is the most reassuring method, particularly well attuned to the traditional forms of teaching used in university education.

A more innovative scheme would be for law faculties and university libraries to both boldly appoint lecturers whose chair is exclusively concerned with skills and information literacy. Learning assignments that serve to bridge the gap between faculty and library and that are assigned an independent place in the curriculum to implement both independent teaching guidelines and integrated teaching guidelines for legal skills and legal information literacy.²²

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- UvT: <http://www.uvt.nl/diensten/bibliotheek/instructie/>,
 - <http://www.uvt.nl/diensten/bibliotheek/instructie/zoeken.html> en
 - http://rechten.uvt.nl/ICTenRecht/intro_bib/,
 - UU: <http://www.library.uu.nl/vakgebieden/rechtsgeleerdheid/10583main.html>,
 - <http://www.uu.nl/uupublish/homerechtsgeleer/juridischebiblio/informatie/elektronischezel/22753main.html> en
 - <http://www.uu.nl/uupublish/homerechtsgeleer/juridischebiblio/informatie/cursussen/18361main.html>
 - EUR: <http://www.eur.nl/ub/nederlands/instructies/informatievaardigheden>,
 - <http://library.otis.edu/infocomp.htm>.

²² R. Levor, 'The Unique Role of Academic Law Libraries' 2004. Toolkit for Academic Law Libraries, Academic Law Libraries, Special Interest Section, American Association of Law Libraries. See: <http://www.aallnet.org/sis/allsis-toolkit/index.asp>.

In the first plan, a connection is sought with the main subjects in the curriculum. Didactic teaching methods are applied within the main subject in which legal subject-related learning material is linked to the use of legal information literacy skills. This could easily form part of project education at the beginning of the bachelor phase. At the end of the study, individual assignments, papers, projects or theses could serve as pioneers in specialized exercises for collecting and processing information and presenting arguments. The latter plan does justice to the rapid developments within the world of the digital library and the changes they entail for academic activities in university education. By creating new chairs, faculties could focus on legal information literacy in education and in doing so, stay abreast of the rapidly changing field of information literacy.

Despite the fact that recent decades have seen information collection and processing become particularly important for lawyers. Up until now, successive law visitation committees have paid scarcely any attention to the subject of legal literacy. It is to be hoped that in the coming review protocol, attention will be paid to the state of the art in education concerning legal information literacy. It is also important to state that the legal profession has little room left for lawyers who do not have a thorough knowledge of the use of academic digital sources. Previously, people could receive extra coaching on the job, but now this has become an area in which newly graduated lawyers have to compete against each other during selection. This in itself is an argument for not neglecting this area in degree courses.

In addition to a joint faculty and library chair, consideration could also be given to a new integrated curriculum based on the use of academic digital communication. In a course which combines all these information skills, subject areas would play a different role than in the traditional legal subject curriculum. A combination of knowledge from the core of the areas of law and the new knowledge infrastructure of the library, would attempt to meet the needs of the primary partners in the profession. The most obvious option is to set up a master's program that follows on from a bachelor's degree in which legal literacy plays an integral part. Law faculties should themselves take the initiative and apply educational investments to bring about an even closer collaboration with university libraries.

6. Conclusions

In recent years the interconnectedness of legal skills and legal information literacy has become more important and urgent. The need for university educated lawyers to have acquired an in-depth knowledge of the

application of information literacy can no longer be in any doubt. The quality of the sources is crucial to the assessment of the persuasiveness of legal information. The abundance of the digitized information available requires thorough practice in using the sources. Clarifying and qualifying the information accessed is the most basic rule for the academic handling of legal sources.

The rapidly changing digitized education environment of lawyers requires a far-reaching change to the curriculum that goes further than the usual superficial adjustments in the legal subjects appropriate for teaching these skills. The more important, publicly available, legal information is present in the electronic university library. Access to this information is free for students, but requires them to make many informed strategic choices when using the library.

The complexity of the library's digital structure requires relatively new information literacy skills. The method and techniques for applying these have scarcely been didactically elucidated. The use of traditional subject skills to implement legal information literacy is only just beginning to develop.

Interweaving legal skills and legal literacy requires close cooperation between faculty and library. It is vital to embed these complex innovations into the curriculum in order to successfully guide and implement them and provide them with an academic foundation. Law faculties should professionalize the possibilities in consultation with university libraries by changing their policy on appointing chairs in this matter. The best guarantee for gaining recognition for the importance of Information Literacy is to open the curriculum to it and give it a distinct and independent place. The academically formed legal knowledge broker needs a master in law which gives a central role to Information Literacy. In many respects, tackling this challenge will prove more than worthwhile for law faculties and university libraries.