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Deconstructing Myths about Interdisciplinarity: is now the time to rethink interdisciplinarity in legal education?

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Abstract

The article wishes to present an argument about how interdisciplinary modules can enhance legal education. This argument is developed against the backdrop of major disruption in higher education and transformation in legal education. Following a definition of interdisciplinarity, the benefits of this method are analysed and demonstrated through practical examples from an interdisciplinary pilot module based in a UK Law programme. Some selected issues from Equality law will be used to demonstrate how an interdisciplinary approach has enabled students to look more critically at what the law chooses to protect and the ways in which laws are drafted and applied. Such enhanced learning outcomes from interdisciplinary legal education can support the re-calibration of legal education and complement the traditional doctrinal approach to legal education. It is argued that experiences and good practice from comparative law can provide inspiration for the strengthening of interdisciplinary legal education.

Keywords: Interdisciplinarity, legal education, equality and diversity, comparative law, doctrinal law, transformation of legal education.

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Introduction[1]

Legal education, which undoubtedly itself is in a period of change, is woven into a wider higher education context that is going through major disruption: higher education faces pressures for change, adaptation or at the very least reflection in the light of economic changes globally. This article argues that, although tertiary education has benefited immensely from contemporary theories of excellent pedagogy, change is now pressing. Specifically, legal education must avoid parochialism, achieve a forward-looking vision and needs to overcome the perceived false dichotomy between liberal education and employability. Given that in the UK fewer than half of Law graduates enter into the profession, Law faculties should keep reflecting on how we deliver our curriculum. This article aims to unveil the why and how interdisciplinary modules can enhance legal education. The article will go about it in the following way: (1) Through an epistemological lens, this critique will set the scene and argue that the playing field has changed and legal education at tertiary level is in serious need of transformation. (2) Next, the article will provide a definition of interdisciplinarity and an informed, focused suggestion on the kind of transformation needed. (3) Analysis derived from this will then be utilised to stress the primary importance of interdisciplinarity in re-calibrating today's legal education. Yet it is not just knowledge and understanding itself that requires an overhaul as one outcome of our principled approach to education. It is the way we deliver legal education and its enhancement for graduates of today that is at the centre of this article. The benefits of interdisciplinarity – as a complementary teaching method, not a replacement, can help to make a difference. It is argued that the benefits outweigh the (many) challenges. In developing this argument, the critique uses lessons learnt from comparative law. The evolution of comparative law could be seen as paradigmatic, in that its contemporary acceptance, or even favourable reception in recent years might bear some lessons for interdisciplinarity.[2]

[1] Some elements of this article were presented, as an earlier version, at the Berkeley Centre of Comparative Equality and Anti-Discrimination Law Annual conference in Melbourne in 2018.

[2] Comparative law, it is conceded, is different to national doctrinal law, nevertheless has convincing valuable lessons. These help to make the case for increased interdisciplinarity in legal reasoning generally.

The scene

The Nature of Law

Law is characterised by legal perspectives (of which there are many), and this is important.[3] Studying law and applying the law requires a critical approach to academic ideas, theories and problems. Those studying law need to make objective and balanced decisions, and communicate those in a clear, persuasive and convincing way. Is it not crucial, then, to acquire different views and viewpoints, and different formulae to understand concepts from different viewpoints?

The nature of Law lends itself to this character: one factor is its multi-faceted nature,[4] shifting meaning of concepts and definitions. It is argued here that interdisciplinarity must be part of the juristic understanding, which helps shape the parameters of interpretive possibility that inform its development and meaning. Legal perspectives are imperative in defining, shaping and safeguarding the values that underpin our society.[5] Indeed, is not the real joy of law in its application to society and how it can help tackle everyday complex problems within that society? In fact, this is how Law is described to prospective undergraduate students in the UK.[6] Most Law schools in the UK promote the relevance of law as a means to tackle current problems, using the skills that law studies can refine as the means to do so.

However, currently law is a distinct discipline,[7] separated from other disciplines such as history, psychology, linguistics, organisational business

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[3] Raymond Wacks, *Understanding legal Theory* (3rd edn Oxford University Press 2012); Bain Bix, *Jurisprudence: Theory and Context*, (6th edn, Sweet & Maxwell 2012); Nigel E Simmonds, *Central Issues in Jurisprudence, Justice, Law and Rights* (4th edn Sweet & Maxwell 2013); Michael D A Freeman, *Lloyd's Introduction to Jurisprudence* (Sweet & Maxwell 2014).

[4] Michael Giudice, *Understanding the Nature of Law- A Case for Constructive Conceptual Explanation* (Elgaronline, Edward Elgar 2015) 5.

[5] There seems to be, broadly at least, agreement on this issue. How this analysis is, or should be conducted, is widely disputed, see for example Kenneth Einar Himma, *Morality and the Nature of Law* (Oxford University Press 2019).

[6] Catherine Barnard, Janet O'Sullivan, Graham Virgo, *What about Law?: Studying Law at University* (2nd revised edition, Hart 2011).

[7] In the history of legal education in the UK, there were no university law faculties teaching the common law effectively before the 19th century. If one treats the Inns of Court as faculties back then, Law then might be seen as a separate discipline. As for continental Europe, curricula focused on the Corpus Iuris, which isolated legal studies to some extent.

studies etc. It is taught in a silo.[8] This becomes evident following just a cursory look at the high number of straight Law programmes offered through UCAS as compared to the relatively small number of 'Law with…' or 'Law and…' programmes.[9] It is argued that law has its own solutions and answers to certain problems rendering other disciplines unhelpful.[10] This analysis is not going to suggest that the doctrinal approach is inferior or that one approach is more critical than the other. Both approaches use different forms of criticality and both are of equal value and importance for the development of an understanding of the law. It is important to highlight here that by no means should the doctrinal approach and analysis within programmes be replaced or minimized. Black letter law is still the dominant legal education in preparation for the profession. And so it should be: critical engagement with the law requires an in-depth understanding of the core material – this has to do with the critical analysis of the primary documents of the law and thus is something that cannot be replaced. It continues and should continue to lie at the heart of legal research,[11] and must continue to feature prominently in legal education. However, there is a growing argument for an analytical tool that allows for discussion of law as a multi-sided social phenomenon.[12] The need for wider, faceted 'critical thinking' in law[13] leads to the conclusion that doctrinal approaches alone might benefit from a 'top-up'.[14] This is because of the evolution of differing theories in law, including different perspectives and the shifting meaning of concepts in a changing world. Doctrinal approaches need to be complemented by those that recognise that knowledge is (and needs to be) subject to change.[15] This change evolves from different (legal)

[8] A R Codling*, Thinking Critically about Law: a student's guide* (Routlege 2018) 76.
[9] UCAS, <https://www.ucas.com/explore/courses?subject=Law&filterBy=all&studyMode=undergraduate&latLng=false> accessed 8 May 2020.
[10] Dan Priel, 'Two Forms of Formalism) in Andrew Robertson and James Goudkamp (eds), *Form and Substance in the Law of Obligations* (Hart 2019), p. 165.
[11] Terry Hutchinson, Nigel Duncan, 'Defining and Describing What We Do: The Doctrinal Legal Research' (2012) Deaken Law Review 17(1) DLR, 85, 86.
[12] Legal Pluralism, such as Roderick MacDonald 1948- 2014, see: Roderick A MacDonald 'Metaphors or Multiplicity: Civil Society, Regimes and Legal Pluralism' Arizona Journal of International and Comparative Law (1998) 15(1) Ariz. J. Int'l & Comp. L. 69, 70. <https://heinonline.org/HOL/LandingPage?handle=hein.journals/ajicl15&div=10> accessed 4 February 2020.
[13] A term that is extremely difficult to define in itself- though this is not within the ambit of the current article.
[14] This is something that has been discussed in legal research too; see for example: Susan Bartie, 'The Lingering Core of Legal Scholarship' (2010) Legal Studies Vol 30(3) 345-369.
[15] Katerine T Bartlet, 'Feminist Legal Methods' (1989) 103 Harvard Law Review 829.

perspectives. This in turn, requires the evaluation of a range of information from different sources, seeking all sides of an argument, including the wider context. In addition, the change evolves from the higher education context as well: here too discussions have critiqued the meaning of university education.[16] As argued above, this might better be achieved through a less rigid dogmatic attachment to one's own disciplinary contexts.

Let's consider this contemporary disruption of legal education: UK Law schools have, in the past, designed their programmes, mostly, to be qualifying law degrees – thus Law Schools were mostly vocationalist, preparing their students to be lawyers. However, once graduated many law students do not enter the profession. And, given the changes in the way lawyers will qualify in England and Wales (and in line with that the forthcoming changing accreditation standards for UK law schools), Law schools are now more at liberty in the design of their curricula. With these regulatory changes,[17] there is a strong argument to be made that the substance of the student development could well include, to some extent, education about the law in the wider context - what some call educating citizens, rather than just training lawyers.[18] Traditionally, universities in the UK have focused their intended learning outcomes, and their aligned assessment criteria on knowledge and understanding, cognitive and intellectual skills such as analysis and synthesis, use of research-informed literature (such as referencing and academic honesty), and skills for life and employment (such as problem-solving and communication). With regards to the latter, the interdisciplinary synthesis might provide a particularly useful stepping-stone.

What is interesting to highlight, furthermore, is that the benefit of higher education learning is seen by the Office for Students (OfS) as a contribution to regional and national development, and its role in economic prosperity, social mobility and cultural enrichment.[19] This is coupled to an experience for students that enriches their lives and careers. It includes the need for transferrable skills such as communication, team-working, creativity, adaptability and problem-solving, embedded in a programme and in

[16] See below under '[t]he nature of higher education'.
[17] This will not be a change in standards as such, but rather the elimination of the SRA regulations.
[18] Vincent Kazmierski, 'How Much 'Law' in Legal Studies' (2014) Canadian Journal of Legal Studies 29(3) C.J.L.S. 300.
[19] Office for Students, <https://www.officeforstudents.org.uk/> accessed 5 May 2020.

assessment, and an Office for Students review will look at graduate outcomes and employers' perspectives. In this endeavour, the Office for Students has co-funded with Research England a programme to identify and improve the benefits for students in knowledge exchange activities. In line with this, the Office for Students is encouraging development and re-design of curricula to embed skills that enhance employability of graduates. It is argued, therefore, that interdisciplinarity can help embed these skills in the legal curriculum.

Thus, the perceived dichotomy between legal education and education about the law is false- and this is further strengthened by taking a closer look at the nature of higher education.

The nature of higher education

One might say that one function of tertiary education is to teach students academic theories, methods and knowledge domains,[20] contribute to their cultural advancement and prepare students for life after university (occasionally referred to as professional life).[21] Some believe that a strong connection exists between the health of Europe and the partnership of higher education institutions across Europe.[22] However, recent developments across Europe indicate that there now is an increasing economic component to higher education alongside academic idealism and 'higher purpose'. Global knowledge competition,[23] the need to serve economic ends,[24] as well as the

[20] The university as the holder and provider of 'intellectual capital' or the aim of academic enlightenment; some argue this goes back to the Humboldtian theory, creating a community of scholars and students, advancing knowledge by original and critical investigation.
[21] Ulrich Teichler, 'Universities Between the Expectations to Generate Professionally Competences and Academic Freedom: experiences from Europe' (2013) *Procedia – Social and Behavioral Sciences* 77 421, 422-423.
[22] In line with that conviction, Horizon 2020 has invested 3% of the EU's GDP in research and innovation. Universities play a key role in economy in that they increase skills, support innovation and attract investment and talent, see Universities UK, *The Economic Role of UK Universities* 2015, 2-3.
[23] The UK higher education landscape has a culture league tables, key performance indicators, and surveys, as well as student satisfaction surveys.
[24] Sonal Minocha, Dean Hristov, Samantha Leahy-Harland, 'Developing a future-ready global workforce: A case study from a leading UK university' International Journal of Management Education (2018) 16(2) 245; Tomlinson, M, 'Graduate employability: A review of Conceptual and Empirical Themes' Higher Education Policy (2012), 25(4) 407; and Michael Tomlinson, 'Introduction, Graduate Employability in Context: Charting a Complex, contested and multi-faceted Policy and Research Filed' in *Graduate Employability in Context* (Palgrave Macmillan 2017), 1.

metamorphosis of the student into a customer are the source of this crisis.[25] In accepting that the role of universities, and our role as legal educators has changed, it is suggested that interdisciplinarity can deliver to this new demand without academia departing from the original ideals of intellectual expertise, academic autonomy, and isolated from external pressures.

Interdisciplinarity in legal education

Definition of interdisciplinarity

Before the benefits and potential contributions of an interdisciplinary pedagogy to legal education can be evaluated, it is necessary to outline which understanding of the term is applied in this article. An extensive and useful set of definitions and types of interdisciplinarity can be found in a now nearly 50 year-old report following a seminar on Interdisciplinarity. This report organizes interdisciplinary activities into categories of multi-, plury-, inter-, and trans-disciplinarity.[26] The many fragmentations and definitions of interdiscplinarity have been criticized by some authors.[27] For the purpose of this article it will be sufficient to clarify the difference between interdisciplinarity and multi-disciplinarity, though not as detailed as Graff has done it.[28] Here, multi-disciplinarity is understood as a variety of disciplines informing a topic - in a way characterized by the breadth of information. Quite apart from that, interdisciplinarity is understood as depth of information, where two or more disciplines are integrated, focusing on the same real world problem, and solving its complexities through blending and linking of disciplines. Interdisciplinarity brings the disciplines together in such a way that

[25] Although, generally across European countries, access to tertiary education is less fee dependent and overwhelmingly decided by school leaving qualifications. British universities are a peculiarity in this regard in that British Universities select, mainly on the basis of grades/examination results; British universities that can select the best school leavers tend to be the ones with the best performance in league tables. Furthermore, British universities tend to charge high annual tuition fees (since fee introduction in 1998) and this has been criticised as a barrier for social mobility, though data indicates that social mobility has improved as more students from disadvantaged areas are now attending university.

[26] Leo Apostel, 'Interdisciplinarity; problems of teaching and research in universities', OECD (1972).

[27] Robert Frodeman, 'The Future of Interdisciplinarity' in *The Oxford Handbook of Interdisciplinarity* (2nd edn Oxford University Press 2017); Julie Thompson Klein, 'Typologies of Interdisciplinarity, The Boundary Work of Definition' in Robert Frodeman, *The Oxford Handbook of Interdisciplinarity* (2nd edition Oxford University Press 2017).

[28] Harvey J Graff, *Undisciplining knowledge: interdisciplinarity in the 20th Century* (Johns Hopkins University Press 2015).

the problem is viewed through one single lens, rather than through several lenses, and this way widens the perspective and understanding. Frequently, the terms are used interchangeably, and it is argued here, thus incorrectly.

It is imperative at the outset to recognise that the difference between interdisciplinarity and multidisciplinarity is of kind and not of degree. To demonstrate the subtle difference between multi- and interdisciplinarity consider the following two programmes: a degree programme comprised of a variety of modules (Philosophy, Psychology, Sports and a language), each subject-specific module taught and assessed in their home discipline according to their own conventions, would be multi-disciplinary. With multi-disciplinarity the subjects are placed side by side. It is a sequential consideration of subjects without any intersection.[29] The student learns the subjects one alongside the other. However, a programme where the student selects a range of subjects, such as Law and Politics, and the student is taught these disciplines in an integrated way and required to synthesize the information in an assessment, would be interdisciplinary. Each programme would take a different approach, use different methods (learning and assessment) and have rather different learning outcomes. However, through inclusion and integration, interdisciplinarity subsumes multi-disciplinarity; it seeks to create commonalities between the different disciplinary insights and aims to construct a more comprehensive understanding around a complex issue.[30]

In essence, central to interdisciplinarity must be the characteristic of integration and synthesis. Thus, it is not an additive relationship but rather a more complex interrelationship. By way of integrating information, techniques, perspectives, concepts and theories from more than one discipline, this method of learning facilitates solving problems in ways that would have been unlikely through the means of any single discipline. It leads to deep understanding,[31] which allows complex causal thinking and critical argumentation. And this is precisely how it is applied in the following discussion.

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[29] Allen F Repko, *Introduction to Interdisciplinary Studies*, (Sage, 2014), 31.
[30] *Ibid* 37-38. This definition centres around the more common conception of interdisciplinarity – Instrumental interdisciplinarity, rather than critical interdisciplinarity which often questions disciplinary assumptions.
[31] From USA Experience: *ibid* Harvey J Graff; John H Aldrich, *Interdisciplinarity: Its Role in a Discipline-based Academy* (Oxford University Press, eBook 2014), 151.

An example

A good example of this form of integration would be a module on 'Equality and Diversity at Work' designed and delivered by the author. The underlying rationale for the module is to expand and develop the understanding and provision of teaching in the area of Equality and Diversity in the university. The novel idea is to approach education on this topic from a more contextual angle, making problem solving a central aim and in the process equipping students with the tools to tackle contemporary equality issues. In particular, this module breaks new ground in its interdisciplinary approach as it incorporates academics from Law, Business and Psychology.

The module responds to the university education strategy by providing truly inter-disciplinary learning, which is context based and incorporates problem solving. It is designed for, and delivered to Law, Psychology and Business students and it is designed and delivered by academics from Law, Psychology and Business, each with research expertise in equality and diversity issues. It intends to provide a perspective on equality and diversity that incorporates insights about the legal framework, the business environment, and the psychological dimension. Content is limited to the meaning of Equality and shortcomings of that definition, as well as measures to achieve equality (from the Law side), mindsets (from the Psychology side) and organizational diversity paradigms, and reporting analysis (from the Business side).

Third year students (NQF6) build on a rich knowledge base acquired in their own discipline specific subjects, as well as broadening their knowledge through the interdisciplinary approach to develop understanding and capacity to address real life issues of equality and diversity. It is therefore essential that students have a rich knowledge foundation in their own discipline, as this is needed to integrate concepts, theories and ideas, creating new knowledge and skills. Students cover a range of real life and current equality issues and explore how and why problems arise, how these should be managed, and the need to apply a broader critical perspective, transcending discipline limits to enhance equality and achieve diversity.

As an intended learning outcome, the module provides students with a wider disciplinary grounding, helping them break out of their discipline silos. It

requires students to synthesise and integrate arguments, research different material and processes into their own argument. The module supports and facilitates teamwork (from both, colleagues from faculties, and students from the different disciplines) and works to build effective oral and written communication as well as a wider, critical awareness. It equips graduating students with skills so they can make a real difference in public policy on future equality that is evidence based and research informed. This way, the module builds a bridge for students from academia to society. Developing the capacity to understand and inform the translation of theory into practice puts these graduates in a position to lead change.

Academics leading the interdisciplinary teaching and assessment on this module collaborate closely; to achieve true integration, academics must work towards and through common ground.[32] This means, rather than teaching and assessing information on the module through their own discipline knowledge, the academics strive to find a shared foundation, a mutual and shared belief and understanding underpinning all work. This shared basis and belief centres around perspectives in a way disciplinary courses cover subject content. [33] Common ground is established not just with regard to the subject-specific equality and diversity syllabus content but also the way it is taught. It takes time to achieve this common ground when discipline specific conventions, processes, language and methods are so very different. Therefore academic staff teaching and assessing a truly interdisciplinary module must work together closely in design, delivery and support for this module. Staff must, in their delivery, serve as a model for students, guiding them through the integrative approach. Some sessions, at regular intervals, are team-taught to help demonstrate the common ground. Alongside the teaching syllabus, the academic staff have regular team meetings to agree delivery, pace and content. The more academics design the curriculum together, talk to each other and inform each others' content and approach, the more interdisciplinary the module is, rather than just multi-disciplinary. This collaboration ensures common ground and equal weighting of discipline input on substance, theories and discipline insights. These regular meetings also serve as constant review, evaluation and survey of progress.

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[32] William H Newell, 'A Theory of Interdisciplinary Studies' in Issues in Integrative Studies (2001), 19, 1-26, 14.
[33] William H Newell, 'The State of the Field' in Issues in Integrative Studies (2013), 31, 22-43, 30.

Challenges

Interdisciplinarity comes with its challenges.[34] Indeed, interdisciplinarity has yet some way to go to receive a fair share of attention. Constraints such as resource allocation (time and funding), our disciplinary norms and how we work in our discipline silos, as well as external legitimacy are real challenges.[35]

What complicates matters is that there is not much written about interdisciplinary education, and thus there is a lack of a unique set of pedagogies to support interdisciplinary teaching.[36] Subject specific integration challenges could be compared to learning a new language. This language metaphor illustrates the complication: while one might have learnt the actual words of the foreign language, one might not yet have understood their true meaning. And as with a new language, understanding means that the student must move away from thinking in one language (home discipline) and translating the word into another, new language (new discipline). What is really needed is that the student thinks in the new language, without the step of translation. This, combined with institutional barriers - a discipline focus in the higher education system and its rigid institutional and administrative boundaries – is often perceived as an insurmountable hurdle to learning and teaching beyond discipline boundaries. The risk is one of 'dumbing down' or of achieving breadth at the cost of depth, with graduates not really qualified sufficiently in any of the disciplines.

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[34] By no means is this article an attempt to romanticize interdisciplinarity. Interdisciplinarity has been in discussions and criticized for extended periods and there is no room to explore these challenges again. The aim of this article is to suggest ways to overcome some of these challenges and does so at a time, it is argued, when the transforming context of higher education is ready for such change.

[35] Karri Holley, 'Administering Interdisciplinary Boundaries' in Robert Frodeman, *The Oxford Handbook of Interdisciplinarity* (2nd edn Oxford University Press 2017) 530- 542.

[36] While there is much written about liberal arts education in the USA, not much is available on interdisciplinary pedagogy elsewhere; see: *Oxford Handbook on Interdisciplinarity*, edition 1 and 2, 2010 and 2017 by Robert Frodeman. On Pedagogy, see: Debora De Zure, 'Interdisciplinary Pedagogies in Higher Education' in Robert Frodeman, *The Oxford Handbook on Interdisciplinarity* (2nd edn Oxford University Press 2017), Also: Linda de Greef, Ger Post, Christianne Vink, Lucy Wenting, *Designing Interdisciplinary Education: A Practical Handbook for University Teachers* (Amsterdam University Press 2017).

Enhancements- the benefits of interdisciplinarity

Theoretical

The overarching aspiration of interdisciplinary education is to teach something that is going to matter in students' lives - and this is not just important for graduates' knowledge, skills and social attitude,[37] of widening perspectives,[38] and solving problems, but also equipping them with a sophistication that can been applied after university. The question then must be about what Law as a discipline offers and what students can gain from studying Law. The discipline of Law is difficult to categorise. Yet, there is not much controversy to the fact that it is an analytical discipline, one which creates norms with the aim of applying these norms to people in society. Frequently, students enrol in law programmes with the aspiration to become lawyers. The number of those wanting to become lawyers then decreases throughout their studies. Those who have changed their minds then focus on transferable skills such as enhanced critical thinking and their analytical and problem-solving skills. Law students typically examine questions that are also being investigated in other disciplines, such as Psychology and Business, albeit using different methodologies, concepts and manoeuvring within different frameworks. Continuing the language analogy, an interdisciplinary approach to such questions brings together knowledge and understanding from these other disciplines and can foster a wider perspective and an even more relevant discourse.

A student setting out to study law will have selected their chosen degree on the basis of certain pre-conceived notions. As the current practice of delivering higher education teaching of law is largely designed around subject specific modules, the law student will have that discipline specific, 'internalist' view, on which they base their reasoning and assumptions. In seeing a problem as insiders see it, a student tends to construe its history as a progressive accumulation of 'truths' and separate this 'intellectual core' from the 'social contexts'. An extra-disciplinary viewpoint will challenge and potentially balance this internalist viewpoint, enriching and advancing scholarly debate.[39]

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[37] Sue Noy, Rebecca Patrick, Teresa Capetola, Janine McBurnie, 'Inspiration From the Classroom: A mixed Method Case Study of Interdisciplinary Sustainability Learning in Higher Education' (2017) Australian Journal of Environmental Education Vol 33(2) 97-118, 112.
[38] John Aldrich, *Interdisciplinarity* (Oxford University Press 2014) 19.
[39] Ellen Messer-Davidow 'book reviews' (1992) University of Chicago Press Journals Vol. 17(3), 679.

A similar narrative is constructed around the debate of internationalisation, where it is argued that the benefits are cross-cultural knowledge, including global identity development, global mindsets[40] and skillsets, tolerance and understanding, all of which are seen as employability enhancing competencies as well. The pedagogic value of a diversified student and staff body is the fuel for creativity and a broadened perspective that makes a good lawyer even more convincing.[41] The bottom line is that both interdisciplinarity and internationalisation, allow students to think outside the box, to widen their perspective, and to take on the unfamiliar challenges as well as extract good practice worthy of informing one's own context and complexities.[42] These benefits could enhance the very core of law studies and should be a compelling justification for more interdisciplinary teaching and learning. An example is provided further into this article[43]. Further examples would be experiences from comparative law, which will be discussed further down.[44]

Practical

Drawing on the experience from the author's interdisciplinary law module mentioned earlier, there is a good argument to be made that the interdisciplinary approach enhances learning outcomes for students in the following ways:

Through the integration of knowledge – from students' own discipline with knowledge from two additional disciplines, students synthesize and transfer learning within and beyond their own discipline. The learning is consolidated through addressing real world problems in class. This not only enables students to think contextually and enables complex problem solving (rather than complicated problems). It also helps to widen the vision from academic and theoretical subjects to society at large. No doubt, this will enhance skill and

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[40] Wim den Dekker, *Global Mindset and Cross-Cultural behaviour: Improving Leadership Effectiveness* (Palgrave Macmillan UK 2016), discusses how the mindset of a manager can influence cross-cultural leadership behaviour and intentions.

[41] Stephanie Marshall, Steve Ketteridge, Heather Frey, *A Handbook for Teaching & Learning in Higher Education, Enhancing Common Practice* (4th edition Routledge 2015) 26-42.

[42] Mark William Roche, *Why Choose the Liberal Arts* (University of Notre Dame 2010), 20-22; Veronica Boix Mansilla, 'Interdisciplinary learning: A Cognitive-Epistemological Foundation' in Robert Frodeman, *The Oxford Handbook of Interdisciplinarity* (2nd edition Oxford University Press 2017), 263-265.

[43] See below under '[h]ow is interdisciplinarity helping here'..

[44] See below under '[w]hat has this to do with comparative law'.

ability, be it through a calibrated skills set for those students going into the profession or those pursuing a non-professional career.[45]

Members of the law school and colleagues from other faculties collaborate closely in module design, module delivery and module assessment. Though some scholars argue that collaboration is not an essential characteristic of interdisciplinarity, in this module pilot it is certainly imperative for the success.

How is interdisciplinarity helping here

It is argued that the interdisciplinary approach to teaching and learning about equality and diversity is giving students refined problem solving skills and the ability to tackle more comprehensively complex contemporary and unresolved issues through a wider range of important and relevant insights. It is argued thus that the interdisciplinary approach is enabling students to look more critically at what the law chooses to protect and the ways in which laws are drafted and applied. The following snapshots might explain this further.

As good as the law may be in preventing and penalizing inequality, and also in encouraging substantive equality, it is sometimes impossible to achieve a legal remedy. Cases around 'intersectionality' and 'sizeism' (weight based and size based bias), and group rights, such as dress codes are such unresolved legal issues. In dress code cases, the legal framework is clear, but the remedy does not, or cannot function effectively due to external factors. Further examples of insufficient remedy are cases of discrimination, which the victim has concealed to protect wellbeing, promotion, or for fear of being exposed or victimized. Another example would be an organization that erroneously uses its designed in-house diversity structures as indicators of its effective diversity efforts, even though these structures might not actually achieve equality and diversity.

In an era in which positive action and positive duties are on the increase to bring about transformative equality, what is needed is to be informed. This information must include ways in which disadvantage is created, maintained and perpetrated. That crucial bit of information may well lie outside the boundaries of discipline-specific information and may require diving into the wider context. The psychological perspective is a particularly valuable one here: emotion, cognition, motivation and identity need to be understood, as

[45] Janet Weinstein, 'Coming of Age: Recognizing the Importance of Interdisciplinary Education in Law Practice' (1999) Washington Law Review Vol 74(2) 319-366, 325.

well as inter-group behaviour that results in prejudice, stereotyping and discrimination.

Furthermore, if the law has designed effective mechanisms to enhance equality and diversity for organisations, what is required is an additional step to ensure that the implementation of these mechanisms is undertaken effectively, to avoid the illusion of equality and transformation. If this is not ensured on an organizational level, the law is ineffective. Students on the interdisciplinary module would problematize how this sits with the purpose and aim of the law and how the law is applied.

Students critically analyse what the law chooses to protect and that the law has not been able to solve these problem areas on its own. Nor can Organisational Studies or Psychology solve these problems on their own. It is argued, that taking an interdisciplinary approach to teaching equality law might help better understand these 'application issues'. By explaining prejudices, mindsets and organizational approaches, context and common ground can be created. Students need an understanding of this wider context to help with the interpretation, application and further development of the law.

Once this common ground transcending the three disciplines is created wider criticality applied to cases such as *Bahl v Law Society*,[46] or *O'Reilly v BBC and another*,[47] might provide new insights into complex problems. In both cases the claimants felt discriminated against on more than one ground, and felt that the unique combination of these grounds were the true reason for their disadvantage. While the claimants succeed at trial – one protected ground was seen as part of the reason why discriminatory treatment was suffered, the judgements did not acknowledge the intersectionality of the protected grounds that resulted in the disadvantage. The remedy therefore did not address the unique circumstance of the discrimination suffered. Transformative equality should aim at eradicating such discrimination based on stereotyping. Interdisciplinary education and training could help, through recognition, with the development of law and application of law in that wider context.

Given the current limitations of the law in England and Wales, which does not offer protection against sizeism or third party harassment in its legal

[46] *Bahl v The Law Society and others* [2004] IRLR 799 CA.
[47] *O'Reilly v BBC & Anor* 2200423/2010 (ET) published 12 January 2011.

framework,[48] this again is an area where an interdisciplinary approach to legal education might enhance the debate. Currently, at EU level, obesity can be recognized as a disability if it has reached such a degree that weight plainly hinders participation in professional life, and in that case the protected ground is 'disability'.[49] However, up to that degree, weight and size are not protected grounds, though clearly cause for bias in society. The interdisciplinary approach provides students with the opportunity to enhance their understanding of bias and stereotyping.

Group rights, with regards to dress codes is also an area of stereotyping and bias, where an interdisciplinary approach to equality might help understand the reality in ways that are very different to the legal issues. The Equality Act 2010 clearly prohibits direct sex discrimination, and dress codes would be unlawful under this provision. Yet, practice shows that with regards to gender discrimination through dress codes the legislative framework is not effective. As the UK government report and UK government response clearly recognize, gender discrimination is not tackled by regulation alone.[50] Interestingly, the Women and Equalities Committee's response includes the recommendation of an awareness campaign that should be extended to include all sixth form and higher education institutions in England. It is in relation to such awareness and understanding of equality that an interdisciplinary approach to education might shift complex legal problems into context wider than the scope of a single discipline.

In equality and discrimination law, some older UK case law has been criticised for reinforcing stereotyping,[51] and this has been replaced by later case law confirming that gender stereotyping is not acceptable.[52] However, when

[48] Equality Act (2010).
[49] Case C-354/13 *Kaltoft v Municipality of Billund*.
[50] House of Commons Petitions Committee and Women Equalities Committee, 'High heels and workplace dress codes', First Joint report of Session 2016-2017, House of Commons 25 January 2017; and House of Commons petitions Committee and women and Equalities Committee, 'High heels and workplace dress codes: Government Response to the First Joint Report of the Petitions Committee and the Women and Equalities Committee of Session 2016-17, house of Commons 21 April 2017.
[51] *Jermiah v Ministry of Defence* [1980]QB87, at 96; *Peake v Automotive Products Ltd* [1978] QB 233,238; However, this could also be seen when the court was identifying or constructing the characteristics of a suitable comparator (as required when exploring whether direct discrimination was given): When determining whether a pregnant woman was discriminated against.
[52] *Hurley v Mustoe* [1981] ICR 490, 496; [1981]IRLR 208, para 20 and *Moybing v Barts and London NHS Trust* [2006]IRLR860.

defining the broad meaning of the vague concept 'less favourable treatment' the courts have again done so along the lines of social habits and entrenched social norms. Thus, the reinforcement of stereotyping is still evident, most recently this can be seen in the UK dress code cases.[53] The rationale for permitting dress codes has been that a conventional image is necessary for commercial reasons,[54] thus siding with the abovementioned stereotypes and prejudices. And when choosing a suitable comparator, the courts have struggled similarly: UK case law does not acknowledge that some terms we use may be socially or culturally constructed.[55] Similar issues appear at European level.[56] The de-contextualised approach to rights ultimately leads to a violation of non-discrimination.[57] It is not in the remit of this article to determine which approach the courts should have taken in their assessing of our everyday equality and diversity issues. The intention is merely to highlight that such decisions are not entirely de-coupled from society and a wider context.

Now some might argue that equality and discrimination law is very different to national doctrinal law, especially subjects like black letter obligations and property law. The doctrinal approach to law, favouring categorical thinking, aims to guarantee neutrality and supports structure.[58] However, it is argued that black letter law too is confronted with, though to a smaller degree, the complexities highlighted above, such as an ever-increasing inequality of parties and an unequal distribution of power. Furthermore, black letter law relies, just as equality law does, on vague standards and concepts which need further interpretation (for example unjust enrichment, good faith, moral standards or community values). As Priel has argued, the neutrality afforded through a purely doctrinal approach is unconvincing: all humans rely on cognitive

[53] *Schmidt v Austicks Bookshops Limited* [1978] ICR 85; [1977] IRLR 360 – no trouser rule for women; *Burrett v West Birmingham Health Authority* [1994] IRLR 7 – requirement for female nurses to wear a cap;
[54] *Smith v Safeways Plc* [1996] ICR 868, 881 C; [1996] IRLR 456, per Peter Givson LJ.
[55] In *Pearce v Governing Body of Mayfield Secondary School* [2001] EWCA Civ 1347. [2002] ICR 198; [2003] IRLR 512, harassment of a teacher because she was a lesbian was not sex discrimination because a gay male teacher would have been treated equally badly. The presumption was that sexual orientation is gender neutral. many would argue otherwise- sexual orientation may be socially or culturally constructed, but that is not reflected in our own case law.
[56] *S.A.S. v France* (43835/11) ECtHR.
[57] Nieminen, Kati, 'Eroding the protection against discrimination: the procedural and de-contextualised approach in S.A.S. v France 2014' (2019) I.J.D.L. 19(2) 69-88.
[58] Dan Priel, 'Two Forms of Formalism' in Andrew Robertson and James Goudkamp *Form and Substance in the Law of Obligations* (Hart 2019), 186.

biases.[59] The human mind is considered a cognitive miser, taking shortcuts and relying on information and experiences collected; it is a process that allows us to navigate the world, helping us to make decisions and in doing so avoiding taxing resources.[60] Any law student, law academic, judge and anyone else working with and within the law is analysing and making decisions along those lines.

Arguably, a doctrinal approach to law is not equipped to deal with vague standards and concepts unless there is opening up to other disciplines, when undertaking interpretation, giving meaning and legal reasoning. Vague standards and concepts exist across all law subjects- whether black letter law or not. Cognitive biases, the selection of relevant information and the selection (or not) from a range of information is something that is not exclusive to subjects such as equality and discrimination law. The theory of the cognitive miser combined with the lack of diversity at judicial level (and in fact at leadership level generally, outside of the legal profession), adds to this complexity.[61] One would question here whether neutrality is at all possible,[62] as the cognitive miser means that all humans are taking shortcuts and relying on information and experiences collected, regardless of intellectual status. Here again, interdisciplinary legal education could provide support, through offering additional exposures and thus broadening the information collected and on which the decision maker might rely.

Cognitive bias is not exclusive to case law or legislation, it is not exclusive to common law or civil law. In legal reasoning there is a plethora of schemes of

[59] *Ibid*, 182.
[60] Susan T Fiske, Shelley E Taylor, *Social Cognition* (Addison-Wesley 1984). See also: Russel Spears, S Alexander Haslam, Ruurd Jansen, 'The effect of cognitive load on social categorization in the category confusion paradigm' (1999) European Journal of Social Psychology, Eur. J. Soc. Psychol. 29, 621.
[61] There are currently 12 justices on the UK Supreme Court all are white. Two justices are female and Lady Hale was the first female president of the UK Supreme Court. The Judicial Diversity Statistics, published on 11 July 2019 by the Lord Chief Justice of England and Wales and the Senior President of Tribunals, shows 32% of judges in the courts and 46% of tribunal judges were women. 23% of Judges in the Court of Appeal and 27% in the High Court were women; 42% of Upper Tribunal Judges were women. BAME representation among judges in court is still lower than the general population. While this is a considerable improvement since 2017, there is still a long way to go.
[62] Here the concept of neural partisanship comes to mind, which is at the root of much practice and many ethical problems. USA on the neutrality crisis, see Dan M Kahan, 'The Supreme court 2010 term, Foreword: Neutral Principles, Motivated Cognition, and some problems from Constitutional Law' (2011) Harvard Law Review, Harv. L. Rev. 125(1) 1, 8 on extrinsic influences and partisan cultural values.

intelligibility and paradigm orientations that students should be aware of. Many of these schemes are only found in works by social science epistemologists. When embracing this reach beyond disciplinary boundaries, the benefit is a wider understanding and higher skill at relevant reasoning. This benefit materialises in any law subject when interpreting terms, giving meaning to values and concepts, and reasoning. And it is a gain regardless of whether students enter the legal profession or any other non-professional environment.

What has this to do with comparative law

It is striking how the current debate around interdisciplinarity and the historic debate about comparative law have some similarities, and it is worth highlighting how comparative law has developed into a significant activity through the increased collaboration of academics working in jurisdictions other than those they were taught and are researching in. In fact, an interdisciplinary approach is vital, because of the importance of methodology and epistemology, and of course the different cultural contexts.[63] The analogy is seen as suited for Interdisciplinarity as it matches the demonstrated practice of collaborating with colleagues from the Business School and Psychology. When looking closer there are further parallels between interdisciplinary and comparative law.

Comparative Law, at least in the past, has been critiqued as something non-existent, lacking specificity, lacking tradition and history, lacking guidance on methodology.[64] Comparative law is, just as is interdisciplinarity, an intellectual activity and has comparison as its process.[65] However, these days, within comparative law there is a strong argument that 'learning cannot be cabined'[66], just as this article argues with regards interdisciplinary teaching. Furthermore,

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[63] Pierre Legrand, 'The same and the different' in Pierre Legrand and Roderick Munday (eds), *Comparative Legal Studies: Traditions and Transitions* (Cambridge University Press 2003) 240, 302. Annelise Riles, 'Introduction: The Projects of Comparison' in Annelise Riles, *Rethinking the Masters of Comparative Law* (Hart 2001) 1, 3. Geoffrey Samuel, *Rethinking Legal Reasoning* (Edward Elgar 2018).

[64] More in Peter de Cruz, *Comparative law in a Changing World* (3rd edn 2007 Routledge-Cavendish), 1-3 and also Ran Hirshl, *Comparative Matters: The Renaissance of Comparative Constitutional Law* (Oxford University Press 2014) Vicki Jackson, *Constitutional Engagement in Transnational Era* (Oxford University Press 2010), and in connection with that the book review by Melissa A Waters in *The American Journal of Comparative Law* (2011), vol 59, 602- 608 as well as Victor F Comella, in *The European Constitutional Law Review* (2011), Vol 7(3), 2011, 517.

[65] Konrad Zweigert, Hein Kötz, *An Introduction to Comparative Law*, (Translated by Tony Weir, Clarendon 1977) p. 2.

[66] Vicki Jackson, *op cit*, 280.

normative questions in law, as was argued further up with regards to the law in context, or the beauty of law in its application, can and should be analysed related to other ethical and social science perspectives.[67] Again, the reasoning and justification of comparative law is applicable and convincing. interdisciplinarity strives to achieve this too.[68]

A core challenge to comparative law is the methodological approach to comparison, and the methods chosen differ, language barriers, linguistic details or cultural aptitude pose additional hurdles. In fact, it has been argued that the marginalisation of comparative law in the past was due to its lack of methodological reflection and a lack of theory.[69] A big gap was filled with a single work dedicated to comparative law methodology, drawing on many years of comparative law teaching.[70] It appears that these methods are still varied, yet there is acceptance that the 'otherness' should be embraced and seen in context[71] - in fact, quite like interdisciplinarity, which aims to include the wider context in the normative analysis too. Comparative law methods caution sensitivity, avoiding imposition of one tradition over another- some have termed this avoiding legal imperialism.[72] And it seems further that comparative law has grown in its acceptance despite differing views on methodological approaches. Indeed, comparative law has grown to be a strong analytical activity with exceptional legal authority.[73] What has crystallised are clear and

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[67] Christopher McCrudden, 'Legal Research and the Social Science' (2006) Law Quarterly Review L.Q.R. 122, 632.

[68] A convincing case is made by Shraya Atrey, *Intersectional Discrimination* (Oxford University Press 2019), when arguing for a distinct category of intersectional discrimination, when she argues that disadvantage must be understood in the context, at p.211.

[69] Mitchel De S.O.-L. Lasser, 'The question of understanding' in Pierre Legrand and Roderick Munday (eds), *Comparative Legal Studies: Traditions and Transitions*, (Cambridge University Press, 2003) 197.

[70] Samuel, Geoffrey, *An Introduction to Comparative Law Theory and Method* (Hart 2014).

[71] See John Bell, 'Legal Research and the Distinctiveness of Comparative Law' in Mark von Hoecke (ed), *Methodologies of Legal Research – What Kind of Method for What Kind of Discipline* (Hart 2011) 170; Though even this is contested: while some comparative lawyers would insist comparative law must be seen and understood in context, other would argue that legal transplants are insulated from social and economic context; see: Allan Watson, 'The Evolution of Law- The Roman System of Contracts' (1984) Law and History Review and 'The Evolution of Law continued' (1987) in Law and History Review.

[72] Samuel, G, n 6.

[73] To name just a few: Geoffrey Samuel, Konrad Zweigert and Hein Kötz *An Introduction to Comparative Law*, (1998); Pierre Legrand, in Pierre Legrand and Roderick Munday (eds), *Comparative Legal Studies: Traditions and Transitions*, 2003'; Reinhard

convincing objectives, such as depth, the ability to see things relatively, and a dialectic between the domestic and the foreign[74]. Additionally, comparative law can allow the student to analyse the interaction between different disciplines and relate these to legal rules.[75] Here too we see a similar rationale in interdisciplinary education as mentioned above.

However, an already crowded undergraduate curriculum and the danger of attempting these 'academic stunts' without a robust knowledge base were seen as insurmountable barriers.[76] These are the same arguments used against interdisciplinary learning and teaching. Yet, some UK universities would argue that comparative law has been a cornerstone of legal studies for many years.[77] Having said that, comparative law has established itself as powerful and respected scholarship and there is much that can be learned to further interdisciplinary learning and teaching.

Conclusion

This article is not about whether we are learning and teaching law the wrong way. It is not about right or wrong. The argument is about how we might enhance legal education and how we might strengthen its credibility.

While interdisciplinarity has been viewed as the outcast, it is gaining momentum, even if this is currently happening outside Europe. Granted, in the UK there is a lack of interdisciplinary tradition and a lack of literature on

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Zimmermann, and Matthias Reimann, in Frodeman *The Oxford Handbook of Comparative Law* (Oxford University Press 2012) – with contributions from over 40 academics from around the world. Matthias Siems, *Comparative Law* (2nd edn Law in Context Cambridge University Press 2014)- leading the reader to a deeper and more interdisciplinary perspective.

[74] Jacques Vanderlinden, 'Book Review Geoffrey Samuel An Introduction to Comparative Law and Theory' (2015) Journal of Civil Law Studies, Vol. 8(1) Article 18 355, 363.

[75] Peter Cruz, *Comparative Law in a changing World* (2nd edn Routledge-Cavendish 1999) 19.

[76] Angelique Chettiparamb, 'Interdisciplinarity: a literature review' The Higher Education Academy Interdisciplinary Teaching and Learning Group 2007, 9-10.

[77] LSE's law department argues this has been the case since Professor Otto Kahn-Freund joined their law faculty in the 1930s, see http://www.lse.ac.uk/law/research/comparative-law, accessed on 21 January 2020. Professor Rene David, a French Professor of law and chair of the University of Paris, then professor at the University of Aix en Provence and as one of the key representatives in the field of comparative law, lectured at Cambridge, the University of Columbia, Ludwig Maximilian University in Munich and the University of Teheran. Alan Watson, was an authority in comparative law and created the term 'legal transplants' in 1974 has lectured in at many European universities and in the US.

interdisciplinarity. Progress here is hampered by vagueness and ambiguity with regards to its method, namely effective synthesis and integration. What is imperative is a guide to methodology and integration, as well as critical analysis of the processes. This might aid its cultivation and institutionalisation. For the student of an interdisciplinary module, a mature knowledge base is essential, at least in one discipline, to avoid shallow learning, sacrificing depth and academic rigour. If attempted with more experienced students, in an organised and planned way with clearly designed goals and intended learning outcomes (and aligned assessment of these), law schools could secure long-term educational value and students would benefit from additional gain. In the very least, interdisciplinarity advances the legal mind and supports meaningful reasoning. This way, we, as legal educators, are doing justice not just at a discipline level (Law) but also a moral level (what students really need irrespective of whether they enter the legal profession or not). However, as the challenges are not just about content, but also form, interdisciplinarity has much work to do on mapping out a clear methodology, not least regarding which notions or concepts require an interdisciplinary approach, and how we should integrate external notions and concepts to avoid just borrowing them. In fact, what is needed is a single introductory work to method and methodology in interdisciplinarity. This would enhance credibility, since academia thrives on theory and critique, and it would support interdisciplinarity in its manifestation as an activity and process to legal analysis with practical relevance. Indeed, Law's relevance and beauty is also its application within society and tackling our everyday complex problems. For this, we need to understand more and look beyond our discipline for a wider perspective and do so with enhanced authority - let's cast the net wider and enrich the curriculum.