

Chicago Daily Law Bulletin®

Volume 159, No. 198

Germany's legal education system offers lessons for U.S. reform

One issue that seems to be on the minds of everyone in the legal community is legal education reform. How can we provide better training for lawyers at a lower cost?

The need for reform in both the economic model of legal education and in the law school curriculum is driven by various factors. Changes in the economy, advancements in technology and the new demands of a global marketplace have changed the legal profession and professionals, and educators recognize that the way we train new lawyers can be improved.

As we consider ways to improve legal education in the United States, it is helpful to consider the legal education systems in place in other countries. As a Fulbright senior scholar in Germany, I had the opportunity to learn about legal education there.

In Germany, traditional legal education consists of a university degree program (somewhat comparable to U.S. undergraduate degree programs) after which the student must take and pass the First State Examination. Usually, it takes about five years to complete this first phase.

The university program is highly theoretical. In addition to specialized courses in law, students must satisfy general educational requirements and demonstrate proficiency in a foreign language. Tuition at German public universities is very low; public universities' primary funding is from the government.

Following the university program and passage of the first examination, the student must complete a two-year clerkship training period, followed by the Second State Examination.

The two-year clerkship includes a rotation in each of several different settings: civil court; criminal court or prosecuting attorney's office; administrative court or government agency; private law firm; and a place of the clerk's choosing. The clerks also take courses that are typically taught by judges or lawyers.

While the clerks complete their required clerkships, they receive a modest wage from the government.

Some law firms pay a premium to their clerks, but this premium reduces the amount paid by the government.

The first examination focuses on doctrinal knowledge and the second examination focuses on practical skills. Both examinations have written and oral components and are quite grueling in comparison to American bar examinations.

A German law student gets only two chances to pass each examination and is fully qualified to

“... the German system does provide German lawyers with an excellent grounding in legal theory and practical skills and they emerge from their training without debt.”

BY CYNTHIA FOUNTAINE

Cynthia Fountaine is the dean and professor of law at Southern Illinois University School of Law. She focuses her teaching and scholarship on issues relating to the powers of government and access to justice, including the lawyer's role in assuring effective representation and participation in the judicial system. In addition, she is a frequent commentator on topics relating to professionalism, legal ethics and legal education.



offer the traditional legal education while other applied sciences universities provide a shorter, different program shows that there is a place for schools that deliver different programs of legal education that lead to different careers in the law.

As with any educational system, there are both positive and negative aspects of the German method of educating lawyers. However, the German system does provide German lawyers with an excellent grounding in legal theory and practical skills and they emerge from their training without debt.

Although it is not realistic to duplicate the economic model that sustains the German system of legal education, we could — through meaningful collaboration among the bench, bar and law schools — improve the way we train American lawyers.

As professionals, lawyers must keep the best interests of their clients paramount in navigating the terrain of a changed legal marketplace. Likewise, legal educators owe a duty to their students to prepare them for the challenges and rewards of this new marketplace.

As citizens who enjoy the privilege of living and working in the U.S. legal system, we all have the duty to ensure that the steps we take forward put us on a path toward ensuring that more of our fellow citizens have meaningful access to that system.

Whether or not we borrow concepts from beyond our borders, I hope that we will take this opportunity to look broadly and think innovatively and that we do not overlook opportunities for changes that will improve our system for everyone during this time of reform.

practice as an attorney or serve as a judge only after passing both.

The German system relies on the bar, the judiciary and the law faculties to each do their part to ensure a legal education that is rigorous and varied in a way that ensures that students are exposed to ample theoretical learning along with robust practical training.

This system could not exist without the active support and participation of the government, including both funding of the law schools and the clerkship program as well as administering the clerkship program to ensure quality experiences for clerks.

In Germany, universities of applied sciences also offer degrees in law-related fields, but graduates of these programs are not qualified to do the same work as attorneys who attend a university and pass the examinations.

The focus of these applied sciences programs is practical skill development. These graduates are qualified to engage in specialized occupations that have a legal component, such as real estate, but not to represent clients or appear in court.

The fact that some universities