Law and Interdisciplinarity: On the Inevitable Normativity of Legal Studies

Jan M. Smits*

Abstract

The field of legal studies is undergoing rapid changes of a highly diverse nature. Increasing specialization, globalization, the rise of interdisciplinary legal studies, and a growing separation of legal research and teaching prompt the question: What is the aim and method of legal studies? The approach advocated in this article provides a contextual model of legal scholarship. Its most important feature is that the basis for autonomous legal studies lies in the fact that it offers a method of analysis. Legal studies look at the world through the lens of what people ought to do in law. This puts “Law and …” approaches in context: it is impossible to carry out meaningful interdisciplinary work in the law without giving center stage to the question of what the law ought to be. This article explores the consequences of this “inevitable normativity” of legal studies for future academic research and teaching.

I. Introduction

What is the purpose of legal studies? This question has been around for a long time but has recently regained prominence in both North America and Europe. The movements that fundamentally transformed legal scholarship in the second half of the twentieth century—ranging from Economic Analysis of Law through Critical Legal Studies to “Law and …” approaches—may have become the new orthodoxy in American and Canadian scholarship,¹ but not without severe and lasting criticism.² This most recently led to a renewed emphasis on the autonomy of law and on the importance of doctrinal work.³ In Europe, doctrinal legal work has made place for a more comparative and interdisciplinary

* Professor of European Private Law, Maastricht University and Visiting Professor of Comparative Legal Studies, University of Helsinki.


approach, but it is still—be it also widely criticized—4—the main type of activity that legal scholars engage in.

The aim of this contribution is not to trace the intellectual history of interdisciplinary legal studies and its critique. My purpose is much more modest. It is to set out my own view of interdisciplinary engagement with legal texts and norms. The main point I wish to make is that interdisciplinary legal studies are profoundly influenced by what is arguably at the core of legal studies: the normative question of what the law ought to be. It is impossible to carry out meaningful interdisciplinary work in the law without giving this question center stage. This does not make interdisciplinary studies less important, but it does place them in a much more legal context than many assume.

The elaboration of this claim takes place in three separate parts. First, I will briefly sketch the existing situation by discussing four developments in legal scholarship in both North America and Europe (part II). This is followed by a description of what is in my view the main aim of legal studies and how this relates to interdisciplinary work. This account takes its cue from what I call the “inevitable normativity” of legal studies (part III). Part IV concludes by looking at some consequences of this view for future academic research and teaching.

II. Setting the Scene: Four Developments in Legal Scholarship

It is not uncommon to characterize the present state of legal studies as one of crisis.5 This is undoubtedly caused by the brisk and fundamental changes that legal scholarship has been going through in the last few decades. There are four interrelated developments that contribute to the feeling of crisis among legal academics.6

First, legal scholarship is characterized by increasing specialization and fragmentation. The increasing complexity of society has led to extreme differentiation in studying the legal order. This is caused not only by the further expansion of the various traditional subfields of the law, such as constitutional law, criminal law and private law, but also by the growing separation of the study of positive law and legal philosophy and theory. While the latter seem to strive increasingly for a connection with fields other than the law (as will be seen below), the former get more and more isolated from their foundations. What one can expect from legal theory is that it at least partly bases itself on the substan-

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5 See Smits, supra note 4; Johannes Rüx, Zum Anliegen der Rechtswissenschaft, 1 Rechtswissenschaft 3 (2010).

6 The present state of legal scholarship was recently also characterized by official institutions in both the Netherlands and Germany: See Commissie-Koers, Kwaliteit & Diversiteit: rechtswetenschappelijk onderzoek in Nederland (2009); Wissenschaftsrat, Perspektiven der Rechtswissenschaft in Deutschland (2012), discussed in Stephan Lorenz, Forschung, Praxis und Lehre im Bericht des Wissenschaftsrats, 68 Juristenzeitung 704 (2013).
tive fields such as contract law, constitutional law and criminal law, which are in turn influenced by the general insights developed in legal theory. This is far from the case at present. It is rare to find references to the works of authors such as John Rawls or Amartya Sen in doctrinal writings, while in turn the works of these legal philosophers only rarely refer to the doctrinal discussions that legal scholars traditionally engage in. Related to this shortcoming is that legal research often neglects the interconnections between the various substantive fields: for example, inquiries that aim to identify principles common to different substantive fields are hard to find, further contributing to the isolated development of these subfields.

Second, legal studies are increasingly becoming less doctrinal and more interdisciplinary. In particular in the United States, “Law and …” approaches have been flourishing since the 1960s, leading Thomas Ulen to state that “legal scholarship is on the verge of a dramatically different manner of doing routine legal investigation. Put in a nutshell, that change is to make law much like the other disciplines in the university that believe themselves to be practicing ‘science.’” A similar development is visible in Europe, where doctrinal work is now rapidly losing its status as the pinnacle of legal scholarship. There are various reasons that can explain this development. One is the excellent substantive argument that questions of what law and policy should be like cannot be answered on basis of doctrinal study alone. It often requires that insights from economics, psychology, sociology, etc. are also taken into account. To work on the “system” of law, as doctrinalists typically do, provides then at best an incomplete picture. Another reason for the rise of interdisciplinary work is institutional. In North America, the law is increasingly studied by economists, philosophers, psychologists, and literary theorists because of the simple fact that they were hired by law schools. These representatives of disciplines other than the law tend to bring a clearer focus on the importance of doing

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10 See, e.g., Christopher McCrudden, Legal Research and the Social Sciences, 122 L.Q. Rev. 632, 641 (2006) (noting the “growth of an approach to law that may challenge the idea of legal scholarship as a separate craft”).

11 For a characterization of legal doctrine, see Jan B.M. Vranken, Exploring the Jurist’s Frame of Mind I (2006), and for an account of its history see Jan Schröder, Recht als Wissenschaft (2001).
innovative work. In Europe, it is rather the institutional change in how public universities are funded that is leading to more attention for interdisciplinary legal studies. While in the past most law schools received an earmarked budget for research, European universities now tend to divide money over different schools on the basis of a set of common performance indicators, such as the number of publications in peer-reviewed journals and the number of Ph.D. defenses. This means that law faculties increasingly have to compete with other faculties, which puts their traditional way of doing things under considerable pressure. This increased exposure to other fields led the German author Rúx to note that this could lead to legal scholarship becoming an ancillary discipline for other fields, thus losing its autonomous character. Balkin has identified a similar risk of “colonization” of legal studies in the United States.

Closely related to the second development is a third one: the increasing separation of research and teaching and the ensuing concern that law graduates are no longer sufficiently qualified for legal practice. In both North America and Europe it is questioned whether present-day legal education prepares students in the best possible way for the bench and bar. In the United States, this led to a plea to move away from “Law and …” approaches at the elite law schools and to pay far more attention to black-letter law. European practitioners are also concerned about the quality of law graduates, leading to extensive discussions on the ideal contents and length of the curriculum. For example, the establishment of a new law school at the Institut d’études politiques de Paris (SciencesPo), which offers a two-year post-graduate training in law (unprecedented in the European context), led to fierce discussions among French lawyers. At the same time, the requirements of legal practice are of course not sacrosanct. If the unity of teaching and research is the Humboldtian ideal to strive for, many argue that this ideal is no longer met, and that legal studies should therefore find a better fit with the ideals of liberal

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13 Rúx, supra note 5, at 4.

14 J.M. Balkin, Interdisciplinarity as Colonization, 53 Wash. & Lee L. Rev. 949, 965 (1996) (“Thus, precisely because of its professional status, the study of law looks like a sitting duck for a disciplinary takeover. And indeed, the story of the past twenty to thirty years in legal scholarship seems to have been one of continual invasion.”).


education (Bildung).\textsuperscript{18} The challenge ahead is to reconcile both the changing needs of legal practice (that want lawyers to become versatile problem solvers who are familiar with the law and alternative mechanisms of avoiding and resolving conflicts), and the high ideals of what the university must stand for.

The fourth and final factor contributing to the idea that legal studies are in crisis is uncertainty about how to deal with some major societal developments, such as internationalization and the rise of the information society. The well-known British author, Richard Susskind forcefully argues that many lawyers will become the victim of the digital and technological revolution currently in process.\textsuperscript{19} The standardization of legal aid is likely to lead to the outsourcing of legal work, which will affect the need for specialized legal services. Legal scholars have only started to think through the consequences of the digital age for their research and teaching. Internationalization is another main challenge. Perhaps the most striking development in Europe in the last few decades is the turn away from the focus on national law towards a more international or comparative way of legal research and teaching. This is primarily caused by the decline in the normative authority of state norms.\textsuperscript{20} Additionally, in traditional fields such as private law, criminal law, and constitutional law, whole new fields of “European private law,” “European criminal law,” and “European constitutional law” have emerged, all with their own academic journals, professorial chairs, and conferences. The internationalized varieties of these fields often stand apart from the still existing domestic disciplines. Internationalization has thus led to new dividing lines within the national context with, on the one hand, nationally oriented academics who publish mainly in their native language, and on the other hand a growing group of internationally active scholars mostly writing in English for an international audience. In North America the internationalization of legal studies is less influential, but not unimportant. For example, Martha Nussbaum has written on the need to prepare students for “global citizenship.”\textsuperscript{21} In her view, students are to become citizens of the world, not only of their own country and local community. However, there is no easy answer to the question of how to realize this. Insofar as teaching is concerned, vested interests often stand in the way of rescheduling the curriculum in a more international manner. Research


on the effects of internationalization must overcome the long-standing distinctions between the public and the private, and the national and the international.22

Given these four developments, it is not difficult to conclude that the field of legal studies is undergoing rapid changes of a highly diverse nature. However, the term “crisis” may be too much. This is because the above developments have both negative and positive effects. What is quite certain is that they are evidence of the lively state of legal studies. The discussion about its foundations is vibrant23 and even takes place in national newspapers, as is the case in Germany.24 What some legal academics call a crisis can also be seen as evidence of the extreme openness and dynamic character of the field of legal studies. In this sense legal scholarship today is much more diverse and exciting than it was thirty years ago. But, of course, this dynamism is not without its own problems. A negative aspect of the present diversity of approaches is that there is no longer one overarching theory that unites all academic approaches towards the law. Do the doctrinal, comparative, economic, psychological, empirical, and literary approaches to law have anything in common? As long as this question is not answered, the exact contribution that interdisciplinary studies can make to the law remains unknown. This calls for an inquiry into what is at the core of (any type of) legal studies. It is surprising that this quest for the main question that legal scholarship asks is not higher on the academic agenda. Other fields, ranging from physics and biology to economics and literary studies, are all able to identify the one or two core questions that their fields are about. This seems different for legal studies. Even if the law has until now been mostly resistant to colonization by other disciplines,25 it is still necessary to develop a more robust academic methodology and ask what is the typical question that legal scholarship asks. Only in this way are we able to understand why it is that the law seems resistant to too much outside influence. This calls for the identification of the unifying question of research on law.

III. The Inevitable Normativity of Legal Studies

It is not uncommon to strictly separate the various academic approaches to law. While the doctrinal approach supposedly focuses on the elaboration of a “system” in a specific subfield of the law, the comparative approach primarily compares different jurisdictions, and the empirical approach is thought to identify the effect of legal rules on society. The economic, literary, and psychological approaches to law also have their own aims and
methods. In the same vein, a distinction is often made between doctrinal analysis and critical work, and between law as a social science, as part of the *Geisteswissenschaften* (humanities), and as a normative activity. The question that needs to be answered is whether these approaches are really as far apart as is often assumed, or whether they share a unifying question that is central to the study of law, no matter one’s perspective.

As I have argued elsewhere, I regard as the ultimate question of legal scholarship what the law ought to be. The legal discipline reflects what it is that individuals, firms, states, and other organizations ought to do, or ought to refrain from doing. Typical legal questions are thus: whether disinheriting one’s children should be permitted, whether the death penalty should be imposed for criminal offences, under which circumstances it is justified to go to war, when constitutional review should be allowed, and whether shipwrecked sailors may eat their weakest companion if they are likely to die of starvation. In this regard, the purpose of legal scholarship is to provide a way of thinking about the law. A brief comparison with economics may be useful. Economists are permanently aware of the fact that there is such a thing as (in the words of Nobel Prize winner Gary Becker) the “economic way of looking at life” that they can apply to any given economy. To look at law from the lens of the prescriptive, by asking what is legally the right thing to do, also leads to a much desired shift away from a focus on the substantive law of one given jurisdiction towards a universal method of analysis. While economists study the behavior of *homo economicus* (trying to explain human conduct from the economic perspective), legal academics aim to answer a question that precedes people’s actual behavior: what does it mean for a human being to be governed by law (*homo juridicus*) and what ought he or she to do?

This approach fits in with other recently proposed theories that emphasize the law’s normativity. In particular, the movement of the “New Private Law” was characterized as “an effort to recapture the normative dimensions of private interactions (that is, interactions within civil society).” New Private Law does not regard law as primarily a set of commands by the state, but as a way to identify specific norms of conduct. The in-

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26 CAL manifesto, supra note 1, at 3.
27 Smits, supra note 4, at 41.
28 A fundamentally different view is offered by Geoffrey Samuel, Is Law Really a Social Science? A View from Comparative Law, 67 Camb. L.J. 288 (2008). Samuel emphasizes that the ultimate goal of (at least the civil) law is a search for doctrine, symmetry, structure, and rationality in organizing legal knowledge.
The interesting point about this program is that it re-appreciates the nuances of conceptual structures in the law and the great potential of legal doctrine in providing solutions for a complex reality.\(^\text{32}\) Be this as it may, the authors associated with the New Private Law movement are not explicit about the exact aim of legal scholarship that follows from their approach. The questions of how to identify the relevant norms of conduct, and how legal doctrine and interdisciplinary approaches contribute to this, are not answered. Again, what is missing is an overarching framework that provides a common context to different approaches to law.

In my view, the approach that considers legal studies as a method of inquiry about what the law ought to be can provide us with such a common context. I believe that the core of the normative approach to law is that it is impossible to give one uniform answer to what one is legally required to do.\(^\text{33}\) The aim of legal studies is not to put an end to normative uncertainty, but to take this uncertainty as a starting point. This is because it is in the nature of the law itself to render impossible any consensus on what the right thing to do is impossible. This leads to a characterization of legal studies as the discipline of conflicting arguments.\(^\text{34}\) In law, we can always debate about what is the right outcome. Put differently, when applying the legal approach, we should not search for what is the just society, but instead try to identify alternative answers to similar problems.

It does not come as a surprise that this notion of legal studies was difficult to reconcile with the role of law in the nation-state. With the rise of the national states, only one law (\textit{ius unum}) came to be accepted, inspired by the reluctance of states to allow several normative orders to exist on their territory at the same time.\(^\text{35}\) However, in this respect, the last 200 years have been exceptional. In pre-modern times, a plurality of laws coexisted and law students typically learnt about more than one law, be it Roman law and Canon law, common law and mercantile law, or Roman law and local law. All these laws had a rationality of their own and were difficult to bring under one and the same heading. We are still reminded of this practice in the names of the academic degrees that law graduates receive today.\(^\text{36}\) I believe that studying the plurality of different legal systems provides a much better understanding of what law is about than the one-sided analysis of one specific jurisdiction.

This approach can lead to a better assessment of the role of interdisciplinary work on law. If the field of legal studies is about showing conflicting normative positions and

\(^{32}\) Cf. Goldberg, supra note 31, at 1656.

\(^{33}\) Smits, supra note 4, at 58.

\(^{34}\) Id.; see also Joseph William Singer, Normative Methods for Lawyers, 56 UCLA L. Rev. 899, 911 (2009); Rubin, supra note 30, at 1893 ("The conflict of norms is the essence of normatively-based scholarship .... The entire point of standard legal scholarship is to explore and contrast the pragmatic implications of conflicting normative positions.").

\(^{35}\) See H. Patrick Glenn, A Transnational Concept of Law, in The Oxford Handbook of Legal Studies 839 (Peter Cane & Mark Tushnet eds., 2003).

\(^{36}\) Apparent in the use of the terms LL.B (legum baccalaureus or Bachelor of Laws), LL.M (legum magister or Master of Laws) and LL.D (Doctor of Laws). See Jan M. Smits, European Legal Education, or: How to Prepare Students for Global Citizenship?, 45 Law Teacher 163 (2011).
the consequences thereof, the connection with other disciplines becomes clearer. Other disciplines can help to clarify different positions on what the law ought to be. They assist in creating estrangement of the jurisdiction or legal solution we are familiar with.37 This puts non-doctrinal approaches to law in a normative context. But my claim is not only that the main aim of legal studies is to show the contingency of the law by providing alternatives. My claim also is that “Law and …” approaches are inevitably normative themselves. Meaningful interdisciplinary work on law can take place only in the normative context of what the law ought to be. Despite assertions to the contrary, this means that other disciplines will never be able to provide any “hard” knowledge on what the right solution to adopt is. I will substantiate this claim by discussing some of these other approaches.

The most obvious non-doctrinal approach that can assist in showing the contingency of the law is comparative work. Comparison with other jurisdictions, regardless of whether they still exist (within the discipline of “comparative law”) or have disappeared (legal history), is a formidable method of estrangement. In particular, comparison with radically different jurisdictions, such as religious laws, non-Western law, or the laws of ancient societies, can be a helpful tool to understand the nature of law by providing alternative solutions. At the same time, comparison with other jurisdictions can never provide a definitive solution on what the law ought to be. In the English case of McFarlane v. Tayside Health Board38 Lord Steyn held: “The discipline of comparative law does not aim at a poll of solutions adopted in different countries. It has the different and inestimable value of sharpening our focus on the weight of competing considerations.” This exposes the benefit of legal comparison: it allows one to realize how a different jurisdiction deals with a certain argument, which, in turn, allows one to draw inspiration for one’s own legal system.

A field that has high ambitions about the ability to provide robust criteria for the adoption of certain rules is Economic Analysis of Law. Normative Law and Economics claims that only those legal rules should be accepted that generate the most social welfare, which arguably consists of the aggregate of all individual preferences of citizens.39 The great value of this approach is that it shows, in much the same way as comparative law and legal history do, potential alternatives to well-accepted solutions. Efficient breach in contract law40 and economic analysis of tort law41 or constitutional law42 show how solutions can be reached that differ from the existing national laws. This puts economic analysis in the same normative context as the doctrinal and comparative approach to law.

37 See also Lavi, supra note 2, at 817 (“Estrangement (or defamiliarization) is … a helpful method for identifying alternative answers to the question of what law is.”).
38 2000 S.C. (H.L.) 1, 15.
40 Cf. Posner, supra note 7, ch. 4.
41 See, e.g., Tort Law and Economics (Michael Faure ed., 2009).
However, it is far from the case that this method can provide the guidance necessary to outlaw uncertainty about what people ought to do. Despite assertions to the contrary, economic analysis does not escape normative argument. Not only can one always argue about which monetary value to attach to a particular preference, it is also the case that not everyone will accept the premise of economic analysis that the main aim of society is to achieve more social welfare by satisfying the aggregate of individual preferences.\(^\text{43}\)

To look at legal studies as a method to analyze the contingency of different solutions to similar problems also provides the necessary context to the field of Law and Literature. In particular the movement of “Law in Literature” shows alternative narratives of what the law ought (not) to be like. Again, it is the confrontation of legal texts with how authors understand the law and legal conflict that can provide a complementary perspective on the “ought”-question that is missing in most doctrinal work.\(^\text{44}\) This also means that the Law in Literature approach should not be confined to the study of “high literature,” because there is much space to consider alternative sources of what ought to be, such as movies and music (sometimes referred to as the “Law and Popular Culture” movement\(^\text{45}\)). Hip-hop lyrics, for example, are a fertile source for how the law is perceived in an influential subculture. These lyrics provide easy access to a view of justice that would otherwise only be available by way of extensive anthropological research.\(^\text{46}\)

A third approach consists of empirical work. Unlike Law in Literature, but much in line with Economic Analysis of Law, Empirical Legal Studies often claims that it could provide “hard” evidence of which rules “work” and which do not. This is a fallacy, as empirical analysis of law also takes place in a normative context. For example, Richard Posner’s “Pragmatism” is supposedly an approach that is “more empirical, more realistic, more attuned to the real needs of real people.”\(^\text{47}\) However, it is always a normative judgment what these “real” needs are. Empirical work can be extremely useful to discover whether a certain rule is able to achieve its purpose, but—as is rightly noted in the New Private Law\(^\text{48}\)—the law is not always instrumental. In addition, empirical evidence can never be the decisive criterion for measuring the “success” of a rule. If there is ever a topic that has been extensively empirically researched, it is the deterrent effect of capital

\(^{43}\) See Singer, supra note 34, at 916; Smits, supra note 4, at 62.


\(^{45}\) For a wealth of different perspectives on this movement, see Law and Popular Culture (Michael Freeman ed., 2005).

\(^{46}\) For an attempt to uncover these alternative views, see Jan Smits et al., If You Shoot My Dog, I’ma Kill Yo’ Cat: An Enquiry into the Principles of Hip-Hop Law, 62 Ars Aequi 99 (2013).


\(^{48}\) Goldberg, supra note 31, at 1658.
punishment.\textsuperscript{49} However, any empirical findings on this (which only very rarely point in one direction) will always have to be weighed against other factors when deciding upon the relevant rule. This makes empirical work inherently normative. All the same, what empirical work can do is show how effective or ineffective it is to use law as an instrument to achieve a set policy goal. This can inform the debate about which alternative may be the better one to adopt, without giving any conclusive evidence. This is indeed the way in which empirical legal research is often used: it measures the effectiveness of different (possible) solutions. I emphasize that this fits in with the claim of this article that “Law and …” approaches are inevitably normative in themselves, and that this adds greatly to the richness of legal studies by giving alternative answers to the “ought”-question. This allows us to explore some consequences of this view for future legal research and teaching.\textsuperscript{50}

\section*{IV. In Conclusion: Some Consequences for Future Research and Teaching}

It was observed above that the field of legal studies is often categorized as being a normative enterprise, a social science, or a part of the humanities. Another common distinction is the one between doctrinal analysis of law and critical work. The view of interdisciplinary engagement with legal texts and norms set out above blends these approaches together by offering a unified method of legal analysis. If the aim of legal studies is to reflect upon the normative question of what people and organizations ought to do or not to do, any field that can inform us about this question is relevant. The aim of legal studies is then to expose alternative outcomes to given problems, which automatically makes a highly interdisciplinary field. It would after all be manifestly one-sided to answer this question on the basis of one jurisdiction alone. This not only calls for the continuous study of other (still existing or now vanished) jurisdictions, but also for the insertion of non-legal approaches. A complete picture of the law (i.e., the law in all its varieties) can only be obtained in such a holistic approach. This has several consequences for legal research and teaching.

First, it means that the autonomy of law as a discipline is not based on a strict separation of legal norms and non-legal norms. Instead, the autonomy of legal studies is found in the identification of a question to which a full answer can only be given by involving both legal and non-legal approaches. This not only fits in with the increasing importance of non-State norms (including private regulation) in setting people’s rights and obligations,\textsuperscript{51} it also opens up a wider vista for analysis than the conventional one. If one


\textsuperscript{50} The central claim of this article could naturally also be substantiated for other “Law and …” approaches, but this would offer more of the same. For instance, Critical Legal Studies (see, e.g., Mark Kelman, A Guide to Critical Legal Studies (1987)) is a wonderful example of debunking the determinative character of law, thus adding to the contingency of the existing solutions.

\textsuperscript{51} An interesting parallel can be drawn between the current multiplication of sources of law and the pre-
wants to know how people ought to behave from a legal perspective, one can never be satisfied with only looking at the official legal norms. Instead, it makes sense also to involve alternative accounts of the law, such as those found in economic and empirical analysis and in non-legal texts such as literature, films and lyrics. Not only legal texts provide information on the question of what legally ought to be. Put differently: the autonomy of legal studies lies in a method, or—to paraphrase Gary Becker—in entertaining “the legal way of looking at life.” Needless to say, adopting such a unifying method will also lead to better connections among the various approaches to law set out above.

Second, the approach to law advocated here makes the study of law necessarily more international. It was implied earlier that a truly normative approach towards law cannot stop at the borders of one’s own country. Other jurisdictions have as much to say about the “ought”-question as one’s own legal system, prompting the need to integrate comparative and historical analyses. An additional advantage of this approach is that the field of legal studies becomes better integrated in the university, in which law is still the odd one out when it comes to the origins of the object of study (national law) and the language in which most writing and teaching occurs.

Third, it is clear that the above plea for a more interdisciplinary engagement with legal texts and norms requires a different way of teaching the law. Despite fundamental differences between law schools in Europe and North America, they are similar in that they offer a primarily nationally-oriented curriculum focused on positive law. Textbooks usually try to ban uncertainty about the possible outcome of a problem to the greatest possible extent, meaning that the law is presented as a given and not as a discursive and contingent whole. This is obviously in great contrast to the approach set out in this article. An ideal law curriculum would explore and contrast conflicting normative positions and their implications. This means that students should not learn about one jurisdiction alone, but should be exposed to alternative ways of achieving justice. The starting point is not Canadian, French, or Dutch law, but a certain question and an examination of how this question is answered in different jurisdictions or in non-legal texts. This naturally provides students with the international and broad education that the present time requires. Such a truly international curriculum, teaching students what it means to think like a lawyer, could be followed by a specialization in the law of one specific jurisdiction.\footnote{52 For more detail, see Smits, supra note 4, at 141.}

All in all, the approach advocated in this article provides a contextual model of legal studies. Its most important feature is that the basis for autonomous legal studies lies in the fact that it offers a \textit{method of analysis}. Legal studies look at the world through the lens of what people ought to do in law. This fits perfectly into the critical tradition because this “ought”-question can be answered in many different ways. It is only by reflecting upon these alternative outcomes that we get to appreciate the richness of the law.