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The Case of Finnish Innovative Society: Shaping Legal Higher Education in Line with the Ideals of Social Solidarity

Abstract

In a dynamically changing World, the process of educating students at universities must also change. The changes implemented, however, should be well thought out. The events of the last two years related to the pandemic have caused a global revolution in teaching methods, which have had to be modified to transfer knowledge remotely. Such *ad hoc* changes are contributing to a change in how higher education is viewed, especially in the context of traditional fields of studies such as the law, which have so far been reluctant to embrace new trends in curriculum design and educational methods. Because of their natural attachment to national legal systems, these faculties have been slower than others to undergo internationalisation, i.e. student exchanges in the educational process (due to difficulties with subjects being recognised abroad). For years, the Nordic countries, and especially Finland, have been among the leading countries in the world with regard to shaping effective and innovative systems of education, including higher education.

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Introduction

The concept of innovation has become a permanent feature of Nordic governance mechanisms, and has entered the vocabulary of legal language even though, as Wolfgang Hoffmann-Riem, who has been researching

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innovation in the context of legal solutions and theoretical-legal frameworks for understanding innovation for many years, notes, there is still no legal definition of the phenomenon or systematisation of the terms associated with it. Cultural and social innovation is a prerequisite for technological innovation. The capacity to innovate grows out of specific features of a society. It is not universal in nature. It must always be seen in the specific context of a community's traditions, history and experiences. As Hoffmann-Riem rightly points out, technology – most often identified with innovation in colloquial language – is in fact merely an instrument that arises as a product of an innovative society, i.e. a society that is ready for change and invests in making changes in various spheres of its social, economic and political life. Innovative solutions and practices can be found within the entire system of state administration (not only selectively in specific segments of the economy) – including at the boundary between the public and private sectors (Hoffmann-Riem, 2008, pp. 588 ff.).

In the case of innovation in the public sector, expenditures incurred on modernising public administration (e.g. in the context of digitalisation, such as the introduction of artificial intelligence in the delivery of public services) are taken into account, but so are expenditures on research and development (Cooke, 2016, pp. 190 ff.; Suksi, 2021). The first model is known as scientific and technology-based innovation (STI). The second model concerns innovation based on learning by doing, by using, and by interacting (DUI), i.e. non-technological innovation. The first type concerns the technological sphere, while the second type is related to organisational structure and the institutional dimension. Both models of innovation affect the performance of the administrative system and can take the form of revolutionary upgrades of existing solutions (so-called radical innovations). They are examined in terms of the results achieved following changes of a technological nature (e.g. digitisation), or changes related to the modernisation of the organisation of specific management processes. It is also possible to combine both types of innovation in public administration reforms (Lundvall, 2007, pp. 95 ff.). It is assumed on the basis of empirical research that Finland, in its efforts to combine these types of innovations, pursues the DUI model with a high degree of commitment; this corresponds to Finnish patterns of combining different environments and consensual decision-making. Indeed, the DUI model is considered to be inclusive, practice-driven, interactive and diversified (Cooke, 2016; Thoma, 2017).

The Nordic countries including Finland are an example of the so-called positive innovation paradox. That is, they are able to generate

a relatively higher level of innovation and economic performance than other countries from a given amount of input (e.g. R&D expenditure). The reasons for this phenomenon are attributed to, among other things, Nordic egalitarianism, equal opportunities through education, and the social security system. With regard to innovation, Finland additionally sustains public venture-capital networks, activating the private sector in cooperation with the public administration according to the principles of New Public Management. Studies confirm that public spending as a proportion of GDP is relatively in the Nordic countries in comparison with other parts of Europe. Underlying these mechanisms is the idea of social solidarity (Parrilli, Heras, 2016, pp. 748 ff.; Cooke, 2006, pp. 192, 194; Paakkala, 2011).

In the introduction, it is therefore necessary to consider what social solidarity is. In general, it can be understood as a combination of interests and responsibilities in the context of a specific community. Solidarity can be seen within the framework of the coexistence of different social groups – family, neighbourhood, and institutionalised governance structures, such as, for example, local government, state central administration, or international organisations (Hiilamo, 2014, p. 299).

Solidarity can also be looked at from the subjective side – in the context of actors engaged in a reciprocal relationship to pursue certain common interests. These actors share risks and responsibilities for their actions. Further, solidarity can be interpreted in an object-based context, when looking at the process of identification with a particular object of interest. In the case of public administration, this is most often about the axiological dimension of its actions, i.e. solidarity with specific values considered important in a given legal system. The literature also distinguishes subjective solidarity, which means identification of the individual with specific values or ideals within a given community. This is complemented by intersubjective solidarity, which is more relevant from the point of view of public administration considerations, and focuses on interactions within a given social group (Mędrzycki, 2021, pp. 39 ff.; Warmbier, 2015).

This understanding is close to the understanding of social solidarity in the Finnish legal system (see e.g. Section 19 of the Finnish Constitution guaranteeing the right of social security). It has become a foundation for development, and for building national identity. According to research prepared in 2011 for the Finnish Ministry of Employment and Economy, the country's education system contributes significantly to social solidarity. Education at all levels is an element that consolidates society. The right to education is enshrined in section 16 of the Finnish Constitution:

“Everyone has the right to basic education free of charge. Provisions on the duty to receive education are laid down by an Act. The public authorities shall, as provided in more detail by an Act, guarantee for everyone equal opportunity to receive other educational services in accordance with their ability and special needs, as well as the opportunity to develop themselves without being prevented by economic hardship. The freedom of science, the arts and higher education is guaranteed” (Finlex, 2019).

The legislator is therefore obliged, in accordance with the constitution, to create a system that makes it possible to create equal opportunities for access to education, irrespective of people’s financial condition, abilities or place of residence. Finnish teenagers outperform their peers in countries with a similar GDP per capita in the demanding PISA test of reading comprehension, problem-solving and mathematical skills (PISA-tutkimus, 2022). Significantly from the point of view of the social solidarity developed in accordance with constitutional ideals, the results do not differ between regions, or between students. Education is therefore an important mechanism for levelling the playing field and building collective thinking about the state (Sabel et al., 2011, p. 9).

The first part of this article is an analysis of the specifics of the Finnish higher education system. The second part deals with the relationship between public policy innovation and the education system in the context of processes of legal internationalisation. The aim of the article is to show how belonging to the legal family of the Nordic countries influences thinking about the higher education system, and how this translates into innovative public policies.

The Role of Legal Higher Education in Innovative Society

Higher education is one of the most important areas of public governance in a modern democratic state. At the same time, it is a specific area of public governance that is difficult to compare or contrast with other forms of activity by public institutions (Ferlie, Musselin, Andresani, 2008). The importance of the education system, and especially higher education, stems from the contribution education makes to the development of state and social structures. A well-educated society is an informed, understanding and active society. An effective system of higher education is a necessary element in building the rule of law based on a legal system that can be readily understood by citizens. It is not without reason that numerous sociological studies have shown

that a higher percentage of educated people translates directly into greater understanding and acceptance of norms related to the functioning of the citizen within state structures (Theobald, 2018). That is, into an understanding of administrative decisions, court rulings, and legally non-binding communications issued as part of various forms of non-imperious administrative actions.

The integrated structures within which European states function add to the multiplicity and complexity of normative orders. They are complicated and difficult to understand for many educated lawyers, let alone laymen. The complexity and hermetic nature of normative orders has been the subject of scientific analysis for many years. Quoting one of the many studies on the subject, it should be emphasised that various “modern legal systems, including the ‘Acquis’ underlying the European Union, are very much like ‘virtual cathedrals’; enormous constructions of legislative instruments. Just making accessible all the instruments and procedures by themselves will not provide citizens with sufficient insight. In order to attain such insight, effective methods of disseminating legal knowledge to the public are needed” (Mommers et al., 2009, p. 52). As the complexity of normative systems increases, thinking about education within the social sciences, including law and administration, is changing. The process of the cosmopolitanisation of law, associated with the creation of complex, transnational regulations (especially in public law), means it is necessary to modify how lawyers in European countries are educated. There is a growing need to expand the catalogue of subjects covered (Joerges, Kreuder-Sonnen, 2017).

In search of new solutions, European legal education systems are introducing subjects in the field of data management, artificial intelligence, new solutions in copyright law, issues related to blockchain in public administration, the digitisation of healthcare, and the introduction of new technologies in financial markets (Robinson, 2020). In this way, the changing world is forcing not just a reaction by national legislators and the international bodies that coordinate supranational regulations, but also by the decision-makers who shape systems of higher education. The goal of modern universities is to prepare graduates to the fullest possible extent for the new challenges they will face. This applies above all to the network structures of international administration, which have become a permanent component of the functioning of public bodies. National administration at the centralised and decentralised levels can no longer function without being part of cooperative structures of various kinds. Consequently, the process of legal education is changing. From a traditional, conservative field of study, the law is becoming dynamic.

It is looking for new problems in an evolving conceptual grid, and for new issues to be analysed. This identification of needs also involves identifying higher education problems, such as “inappropriate training for modern practice of law, unneeded and esoteric courses, ideological bias in teaching, arbitrary admissions policies, undue reliance on standardized tests, (...) “publish or perish’ mentality instead of focus on quality of teaching, (...) lack of specialization and innovation, bloated administrative staffs” (Carney, 2020).

Functioning in an internationalised world requires law graduates to be prepared in a way that goes far beyond knowledge of national laws. Even if they limit their future professional activity to practising law in their home country, they will need to know international regulations, both in civil law and in the complex, dynamically evolving substantive administrative law (e.g. environmental law) (Bauer, Trondal, 2015).

The modernisation of Nordic study programmes and educational methods is based on the ideas of making the state and its educational structures innovative, and equalising opportunities, which is characteristic of the Nordic enabling state. Education is one of the basic elements that are supposed to create opportunities, regardless of a person’s wealth, place of residence, origin or social status. It is one of the pillars of social policy, especially in the context of higher education, which is the foundation for the professional development of individuals and an important driving force of national economies (the Finnish economy is a “knowledge-based economy”) (Suorsa, 2007, pp. 16 ff.; Ylä-Anttila, 2006, pp. 9 ff.).

As indicated in the introduction, the starting point is the constitutional guarantee of free access to education at all compulsory levels, which also includes meals for students and travel to school. Equal study opportunities, meanwhile, are provided by a system of public loans and scholarships. Prime Minister Sanna Marin’s government programme includes changes in 2023 related to the income thresholds (by 50%) at which students will be able to receive financial aid. This will allow them to undertake parallel work without losing public support. The changes also provide for an increase in funding for scholarships and food supplements in university canteens. EUR 6 million will be reserved for a regional student loan compensation scheme (Opetus- ja Kulttuuriministeriö, 2022a).

The Finnish education system implements the ideals of social solidarity through a system of mechanisms aimed at realising the potential of every learner – whether pupil or university student. This involves developed support instruments, mainly in the form of extra-curricular lessons. Every student, if he or she requires support in his or her learning processes, can receive it through supplementary and compensatory lessons, as

well as through individual contact with an appropriate specialist, such as a psychologist. The education system shows great flexibility. Higher education in Finland is based on universities and universities of applied sciences (Fin. *ammattikorkeakoulut*) (Musiał, 2015, pp. 6 ff.). A variety of subjects can be studied, regardless of previous choices. Previous stages of education are recognised when changing one's field of study or place of study (Studies Service, N.D.). The university education system, according to constitutional assumptions, is regulated by an act of law (Finlex, 2009).

Legal studies have a two-tier nature. Graduates with the title "asianajaja" complete a three-year bachelor's programme (Fin. *oikeusnotaari*) and a two-year master's programme (Fin. *oikeustieteen maisteri*) (Finlex, 2004). An additional part of their education is a four-year apprenticeship in private practices, law firms or public legal aid offices (induction training), followed by a bar exam (Finlex, 1958). Full-time legal studies are offered at three universities in the country – Helsinki, Turku and Rovaniemi (University of Lapland, N.D.; Global Scholarship, N.D.). In addition, interdisciplinary programmes, including law studies, are offered at the University of Eastern Finland, School of Law in Joensuu (e.g. environmental law within the Environmental Studies and Earth Sciences programme).

The Finns integrate various subjects in their study programmes that respond to the challenges of today. For example, at the master's level at the University of Helsinki, which is regarded as the top university in the country for the study of law, students can take the following subjects: Law and Society, Legal Cultures and Comparative Law, Legal Conflict Management and Alternative Dispute Resolution, Critical Approaches to Legal Studies, Perspectives in Legal Policy Studies, and Sustainability in International law. Finns try to see the education system for lawyers in a modern way, as reflected in the slogans advertising these courses on university websites: "Our task is to actively and critically observe phenomena and decision-making in society from a legal point of view" (e.g. University of Turku: Law – Licence to think critically). All universities where law is taught provide intensive academic exchanges. Finnish universities are involved in a number of international programmes, offering entire degrees in law in English, including at the doctoral level (University of Helsinki, N.D.).

For many years, the Nordic countries, and primarily Finland, have been implementing solutions in higher education in response to changing social, economic and political conditions. Finland has remained in the top three (alongside Sweden and Denmark) of the most innovative countries

in Europe since 2010 (second only to Sweden in 2022). The European Innovation Scoreboard points to a number of innovation factors, most notably attractive research systems, including higher education, solid investment in research and development, as well as use of information technologies (European Innovation Scoreboard, 2022).

The Finnish model of decentralisation in education is regarded as one of the most interesting and inspiring solutions in Europe (Lavonen, 2017). The efforts made in lower education are also reflected in how well students are prepared to become university candidates. In the educational process, it is important to recognise and understand problems, and to logically connect the content presented with the acquisition of necessary or useful skills. This has an impact on education policy; for example, in relation to progressive digitisation (Opetus- ja Kulttuuriministeriö, 2022b).

One should not approach rankings uncritically and view Finland's education system as ideal. No such solutions exist anywhere in the world. On the other hand, there is no doubt that the relatively small community of theoretical lawyers and legal practitioners, compared with other European countries, has created an education system that functions well and is systematically improved.

The Nordic Legal Mind

In analysing the higher education system for the education of Finnish lawyers, it is worth highlighting the existence of a phenomenon that Pia Letto-Vanamo and Detlev Tamm call the common Nordic legal mind (Letto-Vanamo, Tamm, 2019). The Nordic countries show close similarities in thinking about the law. This is expressed in the close cooperation seen within the Nordic Council, which in the field of higher education has been taking initiatives to bring the higher education systems of the Nordic countries closer together for many years. In 2017, a strategy for increased regional cooperation was adopted, which stipulates that member states will endeavour “to exploit the opportunities inherent in Nordic cooperation to a far greater extent” (Nordic Council, N.D.). Although such documents are of a declaratory, legally non-binding nature, they do set out policy objectives that find expression in legislative initiatives in individual Member States. The rationale for Nordic cooperation, including in the field of higher education, is to build up a common belief system that finds expression in various joint initiatives at international forums, including within the European Union. The Nordic states represent a consensual model of lawmaking, which applies to all levels of normative development

– from local government to central government – within the national legal orders. However, this model is also translated into the behaviour of Nordic countries’ representatives in cooperative platforms at the international level (Tiilikainen, 2006). A number of quantitative studies based on surveys of diplomats from EU member states, but also of officials in the administrative apparatus of the European Union itself, confirm that representatives from Finland, Denmark and Sweden are among the most effective negotiators, largely identifying with the “European negotiating system”¹ (Naßmacher, 2013, pp. 23–29).

Finland shares German patterns in many aspects of a pragmatic understanding of the system of law, and shaping that law for a particular community. Finnish consensualism (Finnish consensual culture) feeds into German visions of multilateralism, compromise-building, and the inclusion of different actors in the process of lawmaking and law enforcement (Haugevik, Sending, 2020). To quote Stefan Sjöblom, it can be stated that “Finnish representative democracy is based on a multiparty system, proportional representation, and a strong element of personalised voting. It is characterised by a tendency towards consensual democracy, particularly after the 1960s” (before the adversarial period) (Sjöblom, 2011, p. 245).

Innovation in the case of the Nordic countries, including Finland, stems directly from the belief that concrete solutions of both a legislative nature and an executive nature, related to the application of the law, are intended to serve citizens (Niemi, 1991). Policymakers’ ideas are preceded by an extensive consultation process involving various stakeholders, including – directly – the citizens. A common feature of the Finnish and other Nordic systems is a social conception of the state, which is reflected in its regulative and redistributive functions. The state in the Nordic countries is semantically combined with the term society. The term society in all Nordic languages, including Finnish, directly refers to public authorities (Fin. *yhteiskunta*) and has little in common with, for example, the French semantic concept of society (Fr. *société*) understood in the context of the rights and freedoms of individuals liberating themselves from an oppressive state apparatus in the name of the ideals of the French Revolution (Kettunen, 2019, p. 143).

In the case of the Nordic countries and Finland, a so-called statist individualism is observed. It is the state and its administrative apparatus that guarantees the welfare and development of citizens. The emancipation of the individual from various forms of dependence linked, for example, to

¹ Cf. the German concept of understanding the European Union as the so-called *Verhandlungssystem*.

economic status, is achieved through state interventionism. It is the state, through high taxes and a complex system of public institutions providing social security (e.g. programmes for full employment, programmes for reducing homelessness) and public services for healthcare and education, that enables equal opportunities (Trägårdh, 1997).

In Finland, unlike in the other Nordic countries, the social democratic party does not and has not played a leading role in shaping the political system. From the point of view of the normative order, the long-standing dominance of agrarian groupings, which are closely linked to the agricultural nature of social structures in Finland, is significant. Innovation, in this case, is a derivative of locality. Regional communities are one of the primary reference points in the search by decision-makers at different levels of administration for normative and institutional solutions that are suitable for citizens (Kettunen, 2001, pp. 226 ff.).

State institutions undertaking their activities in the broad sense of social solidarity have strong legitimacy. This understanding of the state and public services corresponds to classical theoretical concepts that are part of the social solidarity strand. Mention may be made hereof the French legal theorist Léon Duguit, who understood the concept of public services through the prism of the usefulness of public administrative bodies. These were intended to serve citizens functioning within a specific state community. Within Duguit's framework, it is the general interest of the collective, not the interests of particular social groups, that matters. This corresponds to the vision of modern affluent welfare states, among which, in the European context, Finland is at the forefront in terms of social security for as many social groups as possible: children, the elderly, large families, the unemployed, the disabled and others (infoFinland.fi, N.D.). The welfare state is understood in this context as an "all-encompassing form of solidarity" (Hellman, Monni, Alanko, 2017, p. 9).

The innovation of Finnish public policies corresponds to the classic classifications introduced by Duguit. Finnish public policy in various sectors includes the following elements:

- continuity of functioning, irrespective of political changes;
- predictability of public administration activities;
- transparency and openness of the functioning of the public management system at different levels, which is related to, among other things, the wide availability of public information to citizens;
- equality in access to public services for all citizens, regardless of their place of residence (including in remote, sparsely populated areas of the country) or wealth;

- active participation of citizens in shaping public services through, inter alia, consultative processes (Fr. participation du citoyen);
- ease of access to public services for citizens resulting from rapidly growing digitalisation (Fr. accessibilité);
- simplicity of solutions and practices related to the execution of the law by public administration (Fr. simplicité) (Löwenberg, 2001, pp. 67–78).

The Finns see innovation in a systemic, comprehensive way. This fits in with the knowledge-based societal planning characteristic of all Nordic countries. Innovation is understood as the efficient use of new solutions, services and processes in markets and society. Specific regulations introduced, e.g. in the context of reforming the education system, should be seen through the prism of such an understanding of innovation and modernisation of the state identified directly with society. Normative standards are seen in the Finnish normative order as an important instrument for the most rational functioning and rationalisation of society. Social policy (Fin. sosiaalipolitiikka) is understood as a fundamental part of societal policy (Fin. yhteiskuntapolitiikka). In this sense, social policy is shaping a society that is modern and “growth-oriented” – i.e. innovative.

Conclusions

For many years, Finland has been at the top of rankings examining the effectiveness of public governance, the efficiency of public policies, and the implementation of good administration and regulations. It ranks top when it comes to judicial independence, the stability of its banking system, the efficiency of its education system, and combatting corruption and organised crime (Hedlund, 2020; Statistics Finland, 2018). Most often, it shares the top spot in such rankings with the other Nordic countries. The phenomenon of the Nordic countries being forerunners in constructing innovative models of public management has been the subject of research in various academic disciplines: law, administration and management sciences, but also sociology and economics (Kananen, 2016; Anttiroiko et al., 2011). This points to the internal integrity of the region, which is expressed in similarities among its national legal systems, administrative practices and culture, and which has a dynamising effect on the search for and development of public policy innovations (Parrilli, Heras, 2016, p. 749).

While the region as a whole, thanks to strong and constantly intensifying regional cooperation, often acts in consort in the international environment (Haugevik, Sending, 2020, p. 110), Finnish

solutions nevertheless show originality, and deserve a separate analysis, especially since Finland is gradually coming to the fore. Regional studies show that innovation related to public management mechanisms and modern administration is increasingly being developed in Finland (Kohtamäki, 2021, pp. 50 ff.).

In Finland, of greatest importance is its large investment of public funds in developing new technologies and supporting research centres searching for innovative solutions in various market sectors. Among the most important actors of this type is a government agency institutionally linked to the Ministry of Employment and Economy – the Finnish Funding Agency for Technology and Innovation (Fin. *Tekniikan edistämiskeskus*, TEKES), which merged in 2018 with Finpro, the agency for the economic promotion of Finland abroad. These now operate as a government organisation, Business Finland, which is active in the Team Finland network and deals, among other things, with the broad internationalisation of public services through information exchange, shortening contact paths between individual agencies and public administrations in partner countries, facilitating economic investment in Finland, and supporting the activities of Finnish investors abroad.

Networking is one of the basic tenets of modifying the Finnish administration, as can be seen in the aforementioned reform of the Tekes agency. The idea is to bring together as many actors as possible in joint platforms that connect experts from different fields and sectors (e.g. by opening up to the private sector) in order to develop solutions that are as flexible and innovative as possible (e.g. under the *We Make Finland Known to the World* programme).

Networking is also a typical method of university management in Finland. An increasing number of faculties are interdisciplinary: the law is being combined with economics, sociology, computer science or language studies (see e.g. University of Eastern Finland, Kuopio/Joensuu). The Finnish model of university education, which offers courses in the social sciences, is stable, and subject to a gradual, thoughtful and logical evolution, as opposed to, for example, Central European countries such as Poland that are still struggling with the burden of their political transformation, and where the changes introduced in their education systems are not always evolutionary. In many cases, they can even be considered revolutionary – in that they abolish existing schemes (e.g. evaluation of academic staff), replacing them with completely new tools. This leads to uncertainty (Syryt, 2018). Measures of this revolutionary type are often of a remedial nature – an ad hoc response to a crisis rather than a well-thought-out plan of action. Yet, in the face of the profound

changes taking place in society, long-term strategies for higher education are indispensable.

In this context, it is worth drawing on Finnish models, especially those concerned with how higher education is understood in such fields of study as law or administration, which are important for the functioning of the state. This understanding stems from the conviction that a stable, well-funded educational sector guarantees a society's innovativeness in many dimensions.

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