

Introduction

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At the end of 2014 a Japanese colleague told that in Japan, which has a very high number of private universities (although with considerable state funding) legal education is now experiencing a considerable decline in students applying for enrolment. Law students can no longer expect (privileged) jobs after graduation, and they are thus turning away from legal education to other more lucrative forms of education for instance as engineers and in business. It is well known that Japan imported European, especially German legal models and legislations at the beginning of the 20th century. It is also well known that Japan as a medium range country in an Asian region has had an economic upturn, but also that it has for more than a decade been stagnating and on the decline.

The Japanese example may be an example of the challenges modern legal culture is facing – not only in Asia, but perhaps also in the Western world. – The relation between law and art – the rather new topic of this special issue of a transnational journal of law and social research – could be an expression of another challenge. When we set out to prepare for this issue at the end of 2012, we were warned by a knowledgeable American colleague (Lawrence Rosen) that this was an interesting topic, but one where it might be difficult to find authors qualified to deal with it. Therefore we decided to set up a workshop in Copenhagen on the topic in December 2013 to be sure that we would have at least some articles for this issue. We did not want to limit the issue to topics on law and literature, which has been a field of major interest amongst lawyers for a long period, but wanted to broaden the perspective.

However, when the Critical Legal Studies conference on Reconciliation and Reconstruction was to be held in Belfast in September 2013, and a call for papers for a workshop on *Artistic and cultural praxes in the transitional and contested territory of urban public space* was sent out earlier that year, it turned out that the conveners, Peter Bengtsen and Matilda Arvidsson, who have contributed to this issue, received nearly forty proposals, the greatest number of all the workshops. Proposals came from all over the world – most of them from architecture, art history, urban studies and ethnography, from artists and activists –very few from legal scholars. This indicated a considerable interest in the topic at least outside the professional legal culture.

One reason for the growing interest to integrate law with various art forms perhaps has emerged from a necessity of understanding plurality in the globalized world. The language of art can be interpreted in multiple ways regardless of linguistic, literacy and professional

skills. Thus they may give more space to law professionals to open up for diversities. Art has the potential to help in comprehending the complex human experience of law and legal process in a globalized world. And it may give voice to experiences of (in)justice and ambivalence as well as to many other emotions, which may have difficulties in reaching the ears of professionals and of normative institutions.

At our workshop on “*Law and Art: European and Global Perspectives*” seven papers (all of which are published in this volume) were presented, as was an exhibition of Rubya Mehdi’s painting titled “Law and Justice” representing an effort towards a multidisciplinary engagement of law and art.

Due to the great interest amongst the fifty-something participants and writers from around the world, we could see that we would not be able to fit all articles; we have received, into this one volume. We therefore decided to publish two volumes. This is thus the first volume, and the next will be published in 2015.

The papers in the two volumes deal with a wide range of areas of art forms and their interaction with law for example literature, film, TV, opera, street art, music, dance, and paintings etc. Furthermore the articles deal with various aspects of law and art engagements for instance: aspects of censorships and other restrictions on artistic expressions; the role of art in providing a new understanding about law in an era of increasing diversities in society; interdisciplinary engagements with the method of law and art and reflections on jurisprudence etc. In the following part of the introduction we will try to elaborate on some of the reflections and experiences which both the workshop and this Volume One on Law and Art has given rise to.

Hanne Petersen introduced the workshop with a longish quote by the American artist, Walt Whitman, who in 1870 produced a small book called “*Democratic Vistas*.” It was translated into Danish in 1874, and was interestingly retranslated in the year of the collapse of the Soviet Union and thus of the bipolar world and worldview, in 1991.

“I say that democracy can never prove itself beyond cavil, until it finds and luxuriantly grows its own forms of art, poems, schools, theology, displacing all that exists, or that has been produced anywhere in the past, under opposite influences. It is curious to me that while so many voices, pens, minds, in the press, lecture-rooms, in our Congress, &c., are discussing intellectual topics, pecuniary dangers, legislative problems, the suffrage, tariff and labor questions, and the various business and benevolent needs of America, with propositions, remedies, often worth deep attention, there is one need, a hiatus the

profoundest, that no eye seems to perceive, no voice to state. Our fundamental want to-day in the United States, with closest, amplest reference to present conditions, and to the future, is of a class, and the clear idea of a class, of native authors, literatures, far different, far higher in grade than any yet known, sacerdotal, modern, fit to cope with our occasions, lands, permeating the whole mass of American mentality, taste, belief, breathing into it a new breath of life, giving it decision, affecting politics far more than the popular superficial suffrage, with results inside and underneath the elections of Presidents or Congresses...”

This was written at a period of time where only very few people in the world, mostly white men with property, had received the suffrage, and where democratic voices came from many angles – several of them from artists, organizers, intellectuals and representatives of emerging political movements. The link between a new understanding and expression of art, democracy and law was part of emerging 20th century thinking and practice and all these and many other fields.

Whitman underlines the necessity of a modern and democratic society and law going hand in hand with a democratic new and modern art. Are we now in this century in a situation, where we need global/planetary art, law and other normative expressions to interact? Globalized markets are influencing art and law, technology and design. Does this lead to greater diversification or to more commercially created homogeneity – or both?

This seems to be a period, where old paradigms are in crisis and to a certain extent falling apart – crumbling into ruins, as Modeér writes in his final article. But it could perhaps also be a period of new beginnings and returns to earlier understandings of ethics, morality, norms, and traditions – or perhaps to the parts of these understandings, which seem attractive to diverse groups of beings or individuals in the 21st century. Groups and individuals, who are seeking for voices and movements, experimenting with forms of expression, of coexistence and with relations, which seem suitable – or undesirable – in this globalized, fragmented, crisis ridden world full of injustices and new potentialities.

All of the articles in volume one deal with changes and challenges to contemporary societies – primarily but not only Western and European, and mostly in the 20th century. The changes include the shifts from agricultural to industrial societies (legal, and social); from colonial to post-colonial; from national to globally diversified societies; from an exclusively male legal profession to a more gender neutral one; from portrayals of the legal profession in live popular opera performances to popular moving pictures accessible in

private homes via television (by now old style flow TV); from nation states and national laws, to artistic presentations of states' military engagement in upholding the (old) world order in all parts of the world – an order which may be perceived as a straitjacket.

They explore a shift from an understanding of law and art as fixed and permanent, to one viewing both as ephemeral going beyond the dichotomy of legal/illegal and seeing law and artistic practices in urban contexts as codependent, mutually reinforcing and creative. They study the influence of decorative arts and decoration in normative female dress practices, reflecting on their interaction with other social and societal norms. They hypothesize that late modern legal scholarship of the 21st century can be identified as a part of a new romanticism. And finally they reflect on how – or whether – the transformations of Western legal culture during the 20th century are also creating new beginnings. Art can appear immanently or be embedded in legal contexts. Law and art interact and intertwine. Both are created within a historical process. The neo-romantic trends within current legal scholarship can be seen as a counter force to as well as related to the realistic, pragmatic and positivistic modernity of the 20th century.

The following section will present very brief reflections on the individual articles in this issue, thus hopefully enabling a reader to see links between the different articles – links that have been created and/or traced by the editors, and which may be interpreted and created otherwise by other readers.

The first two articles by Osama Siddique and Helle Blomquist deal with some of the major conflicts of the 20th century, (post)colonial conflicts, class conflicts, and conflicts related to global migration.

Osama Siddique's gives a fascinating presentation of the author Saadat Hasan Manto (1912-1955), who was to become a Pakistani citizen with considerable experience of the new courts of the new state, as he was accused of obscenity. Siddique writes that Manto belonged to the generation that directly witnessed, deeply felt, and acutely internalized the traumatic outcomes of the partition of India in 1947, its depressing human toll, and the consequent massive social displacement. He examined and faithfully described the complex and disturbing social phenomenon of a deeply fragmented society with fluid spontaneity and unflinching honesty. Manto himself wrote that it was "not too difficult to answer the question as to why today's writers primarily focus on sexual matters – we live in an age of strange paradoxes – women are more proximate now and also afar – at places one encounters utter nudity and at other places they remain covered from head to toe; one comes across women in male guises as well as men dressed as women... the

world is undergoing a great change – eastern civilization is being deconstructed as well as reconstructed; western civilization is being exposed as well as being adopted – there is a kind of chaos everywhere...”

Helle Blomquist asks whether fiction as a creative expression may provide an advantageous framework for discussions about law and legal culture in an increasingly diverse society, and asks who are we in terms of the law in such a society. Her method is a combination and comparison of two works of fiction created at the beginning of the 20th and the 21st centuries and a socio-legal analysis of the reaction of some of her students, future welfare professionals, to the 21st century poem. The first piece by Danish author and communist, Martin Andersen Nexø (1968-1954), deals with issues of class conflict, rural-urban migration and the creation of a new (class) consciousness and a new ‘welfare state legal culture’. The second piece by Palestinian-Danish poet Yahya Hassan (b.1995), is called *Poems*, and deals with current important social conflicts between a (national) population and contemporary immigrants, who come from both the European Union and/or from conflict ridden areas of the global countryside to a place in the world expected to be a safer and more prosperous area. However both newcomers as well as the ‘indigenous’ may experience more hidden forms of conflict and violence in the welfare institutions of this society.

Ole Hammerslev reflects on the use and presentation of artworks by contemporary (Nordic) artists in the period of 2006-2013 presented on the cover of a Nordic critical and interdisciplinary journal *Retfærd*, rooted in the Marxist and critical legal heritage of the 1970s. The artworks selected for discussion relate to the war in Afghanistan and the impact of this war on Western law, they examine covers that focus on law and commerce, and some that focus on law and identity – all three areas of concern for the beginning of the 21st century and the legal discourses related to this period. The artists relate the war in Afghanistan to global trade and to legal changes in the west and to morality, where social and geographical factors determine the development of different forms of law in different societies. International politics has latent and manifest global consequences for local living conditions – and the rule of law is of limited success if it is not based in the *lifeworlds* of and supported by the people it effect. None of the images illustrate more positive impacts law has had on societal development. Modern images of justice do not communicate with law in the language of the law, but they may ask questions about law, which law does not manage to ask itself.

Legal scholar Inger Høedt Rasmussen and opera singer Lise Lotte Nielsen investigate representations of lawyers in operas performed in the period between 1786 and 2014.

They claim that relations between law and the performing arts such as music and drama are even closer than the relations between law and literature and that law should be studied as a performing art. Operas often question power including legal power, and lawyers are generally negatively depicted in operatic works as caricatures, which are often ridiculous, despotic, dishonest and pedantic. Men in power with a legal background are often portrayed as curtailed, one-dimensional, and convinced of their own legitimacy as well as pedantic, petty and crafty. The music may support the characteristic of the individual lawyer, portrayed as ridiculous with a nasal voice, thin and sharp, and monotonous. This creates mistrust against the legal profession(al), and portrays an arrogant human being with a big ego. At present the legal profession's monopolies and its common code of conducts are under pressure, and judges in particular have lost influence in society. Two very recent operas, however, have a somewhat different take on this (male) caricature.

The changing face of the legal profession has also left its mark on contemporary popular culture and its reflections of social, economic and gender changes. Peter Robson's article focuses mainly on two TV-series with women barristers as protagonists produced respectively in 1971 – the pre-Thatcher era – and in 2011 – the era of globalization. The first series was called "Justice is a Woman" – and was produced at a time, when the proportion of the legal profession who were women was 3%. The second series from 2011, which was also the only legal series in 40 years with a female lawyer protagonist was called "Silk" which related to the process of attaining the highest and most famous rank available to British barristers, that of Queen's Counsel (Q.C.), known as "taking silk." By 2011 the number of female lawyers in Britain had risen to 40% and over 50% of barristers called to the bar were women, while 11.8% of Q.C.'s were women. Even if both dramas deal with 'the particular struggles of women in a male world' (and a market world) the 'economically driven structural context' is much stronger in "Silk". In this respect popular culture reflects a general development of law and legal practice over the decades since the early 1970s.

Peter Bengtsen and Matilda Arvidsson write about street art and spatial justice, where street art literally takes a place already taken and – temporarily – imposes itself in an already appropriated urban public space. Street art is ephemeral, impermanent, and short lived and fleeting. The presentation goes beyond the legal/illegal dichotomy and focuses on the relation between art and justice as codependent, mutually reinforcing and creative. Street art is inherently non-permanent. It does not usually work with permanent appropriation from which legal title can be drawn and it invites a radical oscillation between appropriation and dispossession of public space. Thus indirectly it also contests a dominant perception of ownership as permanent and exclusive. Spatial justice, as the

authors conceive of it, should first and foremost be understood as an embodied ethics – a unique and singular place-taking in the metaphysical, psychological and material sense. Spatial justice becomes the very tangibly pronounced ethical demand to withdraw. It is not only an ethical demand but also an exposition of vulnerability to the desire of the other: it enforces a bond of permanent oscillation, mutual reinforcement and creativity.

Hanne Petersen discusses and suggests interpretations of emerging female urban dress practices (large printed patterns), asking to what extent fashion norms are influencing and interacting with other social and societal norms including, what has in the Western world long been called legal norms – most often understood as state produced norms. Nordic and Danish legal culture have been strongly affected by modernism, minimalism and functionalism, as well as by Protestantism's suspicion of images and (floral and temporary) rituals. Architecture, design and fashion as well as legal culture and legislation have all been influenced by these trends, which reflect the impact of social and democratic welfare societies in all fields. At the turn of the 20th century globalization, market economy and commercialized normative culture is demanding and creating new trends in all of these fields – trends which lead to understandings of norms as not only state designed. The attraction of decoration could reflect an interest in broader and more fluid forms of expression and collective behavior both in fashion and (legal) norms.

Kjell Åke Modeér's article is based upon the hypothesis that late modern legal scholarship of the 21st century can be identified as a part of a new romanticism. Late modern legal cultures are defined as the cognitive structures of the contemporary legal actors, and transnational deep structures are an important part of the current legal paradigm. The trend towards romanticism – also defined as a 'neo-romantic turn' – is a trend rather than a dominant paradigm. It has the character of a legal construct composed as a counterforce to the characteristics of the modernity of the 20th century. Where romanticism of the 19th century was a counter-force to the rationality of the Enlightenment, the national romanticism of the early 20th century was a counter force to the dominant positivistic, social, realistic, and even naturalistic trends within science, law, literature and art. The article seeks to identify the relationship between law, religion and art and compares the romanticism of the 19th century and the 'neo-romanticism' of the 21st century. Not only art, but also law is created within a historical process, and what we are seeing now is that romanticism is again expressed in European legal culture.

Finally in the review by Marya Akhtar on *Subversion and Sympathy – Gender, Law and the British Novel* edited by Martha Nussbaum and Alison La Croix it is clear how the transformations of the Western legal culture during the 20th century are creating new

beginnings. Interaction between law and art sensitizes lawyers as human beings (no longer only men) to the conditions of a changing world, a changing understanding of law and relations considered (il)legal and perhaps also a changing legal mentality which is able to move beyond one's own conventional horizon.

On a final note we would like to thank the anonymous reviewers, whose comments have contributed to the improvement and clarifications of the ideas and thoughts presented in these articles, and we would of course also want to give our thanks to the contributing presenters and authors, who have shown unusual enthusiasm in their work with these articles.