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Niels Pepels*

The Invention of the Printing Press: Changing Legal Culture in England

* Max Planck Institute for European Legal History, Frankfurt am Main, pepels@rg.mpg.de

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Ahora bien, en el caso particular de la Historia del Derecho, considero que el trabajo abre muchas puertas. Por un lado, al cuestionar el carácter monolítico y estructurado del Estado, también cuestiona el lenguaje del Estado por excelencia: la ley. En este sentido, nos permite reflexionar no sólo sobre los diferentes contextos y actores que intervienen en la producción de la normatividad estatal, sino también en la forma como esta ha sido aplicada, reconocida y usada de forma diferencial en la sociedad. Por otro lado, también nos permite repensar las diferentes metodologías y fuentes que

podemos utilizar para procurar resolver estas preguntas, así como reabre viejos debates en torno a la autonomía del derecho, a la idea de una Historia del Derecho «interna» y «externa» o a la idea de una Historia del Derecho separada de la Historia Política. Asimismo, considero que el texto es una muy buena fuente para aquellos interesados en las diferentes expresiones históricas de la multinormatividad y en los retos metodológicos detrás de ella. ■

Niels Pepels

The Invention of the Printing Press: Changing Legal Culture in England*

Modern-day communications technology is making its influence felt in today's university classrooms with lectures complemented by PowerPoint presentations instead of blackboard and chalk. In the Internet Age, with its vast online databases, the way research is being conducted is vastly different from thirty or even twenty years ago. Outside of the classroom, citizens nowadays are kept updated almost instantly on what is new in the world. Information about changes in the law is communicated via satellites to smartphones, tablets and laptops.

How does access to the internet and its vast resources of information, only a mouse-click away instead of perhaps hundreds of kilometres in a library in a different country, change the way in which aspiring jurists study? How does it change the way in which citizens have access to the law, and do they inform themselves of changes in the law? The short answer to these questions is that it is too early to tell, as this new form of communications technology is still developing. The last word

on how the internet influences legal research and continues to change how research is being conducted has not been spoken.

It is, however, not too early to assess the influence of the printing press on the law, in general, on legal practice as well as on legal research. In *The Law Emprynted and Englysshed*, based on his doctoral thesis, New Zealand Judge and Auckland Law School Professor David J. Harvey considers the impact of the printing press upon sixteenth- and early seventeenth-century jurists and legal culture. The fundamental question Harvey delves into is: Did the introduction of the new communications technology, namely the printing press, act as an agent of revolutionary change? To answer this question, he focuses upon the ways in which jurists were educated and practised their professional duties. Harvey's timeframe is a logical one: his starting point is in 1475, when William Caxton introduced the printing press into England, and concludes in 1642. This was the year in which the English Civil War began, but also when printed

* DAVID J. HARVEY, *The Law Emprynted and Englysshed: The Printing Press as an Agent of Change in Law and Legal Culture 1475–1642*, Portland: Hart Publishing 2015, 326 p., ISBN 978-1-849-46668-4

statutes and law books had started to supersede manuscript sources in a significant way. Sir Edward Coke's *Institutes* was the apex of printed legal writing in the first half of the seventeenth century, with the first volume published in 1628.

Harvey maps the influence of the printing press on legal publishing and legal education in six chapters, with the last chapter being a comprehensive conclusion and an answer to his research question. The book starts with an introductory chapter, where he lays out his field of study and gives an overview of the related literature, with a particular reference to the works of Professor Elizabeth Eisenstein.

The second chapter discusses the introduction of the printing press in England and early uses by the Crown and the Stationers' Company with regard to printing the law and law books. It also points out the difference between industry controls on the book trade and content control of books rather succinctly. A particularly strong aspect of chapter two is that it provides a good summary of the timeline and regulation of the printing business by the government from 1408 until 1637, without getting bogged down in the debate about the morality of censorship/content control of books. It states verifiable facts, but leaves the questions about the pros and cons of government censorship to articles and books dedicated to such debates. Also nice additions are transcriptions of the Star Chamber Decrees of 1586 and 1637 (respectively appendix 1 and 2), where one can read up on the extensive – even draconian – measures taken by the government to exercise both industry and content control.

The third chapter focuses on describing the legal education and training at the Inns of Court during the sixteenth and seventeenth centuries, and how manuscript and printed texts played their respective roles. Harvey does an excellent job of analysing how jurists were trained at the Inns of Court and how law books, legal treatises in particular, made for easier access of legal knowledge to a greater number of (aspiring) jurists. It would perhaps have been insightful if Harvey had elaborated a little more on how the Inns of Court had come into existence, as they were not a university, and also how they were distinct in their legal education from the Universities of Oxford and Cambridge. Legal training in continental Europe during the sixteenth and seventeenth centuries took place at universities, which is still the case today. In the

United Kingdom, jurists nowadays are educated at universities as well. Since legal education and training in England at the Inns of Court was so distinct from any other European country, more historical background on its origins, although not a significant omission, would have been useful for anyone not versed in the legal training of English Serjeants-at-Law, barristers and solicitors.

Chapter four describes how the law was promulgated and then disseminated thanks to the printing press. Moreover, it treats the printing of more and more books in the vernacular in the sixteenth century, so that ignorance of the law no longer was an excuse to act in a manner contrary to the law, if indeed it ever was. Harvey explores the instrumental role that the humanists played in this process. He considers the propagation of the law and seems to imply that law was, with the advent of the printing press, both more easily disseminated throughout the realm and better understood by the public.

However, Harvey neither examines the book trade in the sixteenth and seventeenth centuries, in particular book trade in the provinces, nor asks about the rate of public literacy. He points out that there was an increase in printing and, subsequently, the sale of law books; however, that in itself is not proof that the layman had a better understanding of the law. One must take into account the fact that there were, in the sixteenth and seventeenth centuries, no printing presses outside of London (apart from the printing presses at the Universities of Cambridge and Oxford). The centralisation of the entire book trade, not just the book trade of law books and the law, is not an insignificant point when discussing the issue of moving from an aural-oral dissemination of the law to a printed one. Information on the provincial book trade would be insightful for gauging the knowledge of law throughout the realm. Works such as John Feather's *A History of British Publishing* and Marjorie Plant's *The English Book Trade: An Economic History of the Making and Sale of Books* shed further light on this matter. On the other hand, chapter four does not put much emphasis on the dissemination of the law and how the public perceived it before or after the invention of the printing press, thus not making it essential to the point Harvey makes.

Chapters five and six must be viewed together. Chapter five focuses on what sort of law books were printed in the sixteenth century, whereas

chapter six turns toward the first half of the seventeenth century and the change in the type of law texts that were printed. Where in the sixteenth century the focus was very much on printing Year Books and statutes, in the seventeenth century the potential of the printing press was better understood and utilised, leading to more treatises by authoritative legal minds as well as the standardisation of law reports.

As stated, chapter seven is the conclusion of the book and answers the book's main question of how the printing press brought about change in the printing of legal texts, shifting gradually from manuscript writing to printed material. This change, in turn, altered the way in which the law was perceived by the legal community and the public at large alike.

Harvey does an excellent job of describing the shift from manuscript to printed text throughout chapters four, five and six. The in-depth analysis of the gradual improvement of printed text in general, especially improved law reports, along with an analysis of the pros and cons of both printed text and manuscript form, gives the reader a solid understanding of how new communications technology, slowly but surely, changed the way law was perceived by sixteenth- and seventeenth-century jurists.

Another strong point of the book is the constant resurfacing of Eisenstein's theory and testing it. As Harvey puts it, »Eisenstein's theory holds that the capacity of printing to preserve knowledge and to allow the accumulation of information, fundamentally changed the mentality of Early Modern readers, with repercussions that transformed Western society.« He tests the theory with regard to law books and the advancement of legal knowledge. He concludes that, while the invention of printing did change the mentality of jurists in England in the sixteenth and seventeenth centuries and improved their capacity to disseminate legal knowledge through Year Books, printed statutes, treatises and standardised law reports, it did not fundamentally change it, as manuscript publishing still stayed in fashion among jurists.

One point of mild criticism is the fact that, while Harvey does address the power of the Stationers' Company and its impact on the (law) book trade in chapter two, he did not go far enough. Although a number of studies already treat this topic, a further elaboration of the issue in chapters five and six would have helped the reader better

understand the Company's monopoly on the book trade – particularly for readers not familiar with the history of the book trade in England.

Let me briefly elaborate my point. With the common law patent, the Stationers controlled all works printed on the topic of the common law, save for statutes and law reports. Harvey points out in chapter six that during the seventeenth century, Coke's law reports and others were printed by a printer not holding the common law patent. But since neither the printing presses of the Universities of Oxford and Cambridge nor the Royal Printer were printing the law reports, it meant that the Stationers' Company also controlled this aspect of law printing. The fact that the Stationers' Company de facto decided which (law) book was printed and whether its contents were »fit« for the public – be it a law report, Year Book or a treatise such as Coke's *Institutes* – had major ramifications even for the content of law books and the sort of books that saw the light of day. The iron grip the Company of Stationers had on the book trade and their vested interest in keeping the book trade centralised in London between 1557 and 1695 is perhaps a unique phenomenon. A great emphasis on this absolute monopoly would enhance the reader's understanding of the book trade in general, but also highlight what was at stake when the dispute over abridgments printed by the Royal Printer arose, as described in chapter two.

Starting in 1475 and concluding in 1642, the book targets a fitting timeframe, and the book takes the reader on a well-described journey through the various stages of printing press regulation by the government without getting lost in a debate on censorship. Harvey's treatment of the training of English jurists in the sixteenth and seventeenth centuries is also thoroughly researched and well-written, and it provides the reader with a good idea of what that legal training looked like. Having said that, more information concerning the history of the Inns of Court would have been welcome in this chapter, especially for readers not familiar with training of English jurists. Moreover, the brief discussion about the dissemination of law to the public would have profited from further insights into the provincial book trade, given that all of the printing presses for printing legal text were centralised in London. However, these are fairly minor points of critique. The book does an impressive job in describing how the printing press acted as an agent of change by way of stationers

printing Year Books, statutes, law reports and treatises. Thus, the printing press, partly confirming Eisenstein's theory, changed how jurists were trained, as they started to use printed law reports and treatises written by great legal minds more and more, while, though to a lessening degree, still relying on manuscript form. Although the role of the Stationers' Company somewhat falls by the wayside, this book is an interesting, thoroughly researched read for any legal or historic scholar who wishes to find out more about how the invention of the printing press impacted the edu-

cation of jurists and the legal culture in England in general. The book does an excellent job of showing the way in which technological innovation in the dissemination of information changed how it affected jurists and legal thinking by way of mass-produced law reports and treatises. This new communications technology provided both the courts and the lawyers with a greater wealth of sources of information on the common law and jurisprudence than prior to the invention of the printing press. ■

José Luis Egío

El concepto de ley en los escolásticos salmantinos

Intereses y perspectivas cruzadas entre la historia de la filosofía y la historia del derecho*

La publicación del volumen *The Concept of Law in the Moral and Political Thought of the School of Salamanca* en la prestigiosa colección Studies in Medieval and Reformation Traditions fundada por Heiko Oberman y avalada por la editorial Brill, es una nueva muestra de la incorporación de teólogos y juristas de la denominada Escuela de Salamanca como Francisco de Vitoria, Luis de Molina, Francisco Suárez o Gabriel Vázquez al canon de grandes figuras intelectuales de la Primera Modernidad. El volumen, editado por los jóvenes y prometedores investigadores alemanes Kirstin Bunge, Marko Fuchs, Anselm Spindler y Danaë Simmermacher viene, en efecto, a llenar el hueco y el interrogante que, tradicionalmente, persistían en una colección que, integrada por estudios insoslayables en el campo de la historia de las ideas políticas y religio-

sas en Europa, apenas se había interesado por pensadores ibéricos o por problemáticas específicamente hispanas o portuguesas.

La inclusión del ámbito cultural ibérico, relativamente reciente (la primera muestra de este interés se produjo en 2008, varias décadas después de la fundación de la colección en la década de 1970, cuando fue publicado un volumen dedicado a la poesía tardo-medieval española en defensa del dogma de la Inmaculada Concepción), se extiende, por fin, al ámbito de la historia de la filosofía política y del Derecho con la valiosa contribución de Spindler y compañía. Mientras que los volúmenes «hispanicos» publicados hasta la fecha en la colección Studies in Medieval and Reformation Traditions se habían concentrado sólo de forma parcial en el ámbito de la historia de las ideas (en la

* KRISTIN BUNGE, MARKO J. FUCHS, DANAË SIMMERMACHER, ANSELM SPINDLER (eds.), *The Concept of Law (lex) in the Moral and Political Thought of the School of Salamanca* (Studies in Medieval and Reformation Traditions 203), Leiden: Brill 2016, 290 p., ISBN 978-90-04-32269-1