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The Journal *Lakimies* in Finnish Legal History*

1. Introduction

Joachim Rückert has characterised legal journals as a seismography of legal history: they measure the legal pulse and note the legal *Zeitgeist*.^{*1} From the history of legal journals, one can learn about changes in legal culture, changes in the history of legal science, and changes in the legal profession. This is especially true for a small country with a small number of legal journals, such as one of the Baltic or Nordic countries.

The following pages discuss the history of the Finnish legal journal *Lakimies*.^{*2} The character of its 108-year history will be examined through a survey of the topics of articles published in the journal and of their authorship. At the same time, thematic changes and changes among contributors will be analysed in the context of the general history of the legal profession and development of legal scholarship in Finland.

2. *Lakimies*—journal of a modern profession

It is interesting to note that in 1903, when *Lakimies* was founded, the journal was named *lakimies* ('the jurist', in direct English translation 'law man')—not designated as a legal journal or review. Actually, the term 'journal', like German *Zeitschrift* or Swedish *tidskrift*, was quite new until the 1890s. Before this, it was commonplace to use titles such as *Acta*, *Archiv*, or *Blätter*. However, *Lakimies* was a publication by one jurist (*lakimies*) for other jurists. Because of the political and legal circumstances in the Grand Duchy of Finland (1809–1917 as an autonomous part of the Russian Empire), the only way to get a journal published was to categorise it as a publication by a private person. Thus, *Lakimies* became the journal of Allan Serlachius, professor of criminal law at the University of Helsinki, whose aim was to establish a juridical journal—practical, not academic.

In spite of its founding history, *Lakimies* represented a new type of publicity—as did many other journals founded in the late 19th century and the early 20th century. It was a link between a learned society and the public. The journal was also a symbol of general professionalisation, of the expansion of legal education, and of the increase in the number of jurists. In 1879, there were only 677 jurists in Finland, but by the 1910s their number had doubled. At the same time, the number of law professors increased, as did that of doctoral dissertations in law. However, *Lakimies* was still a journal for 'law-men': as late as 1932, only one per cent (16 individuals in total) of Finnish jurists were women. Thus, the history of *Lakimies* also reflects changes in the position and prestige of female (academic) jurists in the country.

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¹ J. Rückert. *Geschichtlich, praktisch, deutsch. – Juristische Zeitschriften. Die neuen Medien des 18.–20. Jahrhunderts*. M. Stolleis (ed.). *Ius Commune Sonderhefte* 128. Frankfurt am Main 1999, p. 107.

² The author was editor-in-chief of *Lakimies* in 2005–2009. On the history of the journal see further articles published in the issue "Lakimies 100 vuotta" (100 years of *Lakimies*), *Lakimies* 7–8/2002.

3. Practical journal in Finnish

In the second half of the 19th century, the university became socially more open. At the same time, it changed linguistically. In the 1870s, only 10 per cent of university students were Finnish-speaking, but by the first years of the 20th century some 60 per cent of students spoke Finnish as their first language. A similar trend could be seen among law students, which also had an impact among civil servants, most of whom were trained in law.

Texts in legal science were seldom written in Finnish, however. Finnish legal vocabulary was deficient, and future legal professionals, who should be able to, for example, write court records in Finnish, were trained in Swedish. It was language that also caused the institutional separation out of legal professionals. In 1862, the *Juridiska Föreningen* (Juridical Association) was founded. This association—functioning in Swedish—also had its own journal, *Tidskrift utgiven af juridiska föreningen i Finland* (JFT; ‘Journal Published by the Juridical Association in Finland’), from 1865.

In 1898, though, 17 jurists, including future presidents of Finland K. J. Ståhlberg and Pehr Evind Svinhufvud, founded a ‘club for Finnish minded jurists’ that eight years later became *Suomalainen Lakimiesyhdistys* (the Finnish Association of Jurists), which has been publishing *Lakimies* since 1907. It was because the JFT did not publish articles written in Finnish that *Lakimies* was needed. Therefore, several articles in the early volumes of *Lakimies* discussed legal linguistic matters.

One of the central aims of the founding fathers of *Lakimies* was to further discussions of current domestic law. Additionally, court cases were to be reported and the latest Finnish legal literature reviewed. In the first issue (in 1903), F. O. Lilius, inheritance law scholar and the first editorial secretary of *Lakimies*, wrote a comparative article examining the inheritance systems among Finno-Ugrian peoples. Ståhlberg wrote on new tenancy legislation and Juho Kusti Paasikivi on the book *Das Parlamentarische Wahlrecht*, by Georg Meyer (1901).

The second issue included articles on the need for reform of regulation concerning commercial registers and on problems of alcohol legislation. At the end of the issue, the editor-in-chief wrote about the Young German School of Criminalistics. Moreover, the 1904 volume was quite a modest one—with articles written mostly by the chief editor and the editorial secretary.

At this point, the very founding idea of *Lakimies* came under question. The Finnish-speaking founders wanted to create both linguistic and substantive opposition to the JFT. All authors of the early volumes (beginning in 1865) of the JFT had been professors at the University of Helsinki writing ‘academic’ articles often based on historical analysis. The editorial policy did not change, even though many legislative reforms were discussed in the Diet (Parliament) at the end of the 19th century. Thus, *Lakimies*—according to the example of many other legal journals abroad—was to be a legal journal focusing on current practical legal problems. However, this seemed to be a difficult task, as was the case also in the following century.

4. Academic *Lakimies*

The 10-year-old *Lakimies* included articles on tenancy regulation, pieces on prisons and obligations of medical practitioners as witnesses, and two thorough articles by Ståhlberg on freedom of association and freedom of the press. But if we look more closely at the articles—for instance, that of O. A. Arho on the law of evidence in civil procedure—many features typical of their time can be recognised. This article was long and dominated by various conceptual definitions and references to German legal literature. In other words, articles were written in Finnish, but foreign—especially German—legal ideas were employed for renewal of domestic law.

It should be mentioned that the legal science of the 19th century performed a central function in legal development in Finland. In spite of the autonomous position of Finland within the Russian Empire (1809–1917), the role of Diet was either non-existent (1809–1863) or weak. Many legal reforms necessary for industrialisation were realised by the judiciary, through the legal practice of the courts of appeal. And because of lack of democracy and constitutional guarantees, legalistic thinking and constitutional dogmatics became important, too.³ The first professorship in the Nordic countries dedicated solely to administrative law was established at the University of Helsinki in 1907. The central topics addressed by the discipline were, and still are, the principle of the rule of law and its interpretation.

An important model for Finnish doctrine was the German literature discussing the concept of the *Rechtsstaat* and the principle of legality. In other fields of law, too, an orientation toward Germany was common. Early civil-law doctrine (e.g., that of Robert Montgomery) was influenced by the German pandect literature. The founding father of Finnish procedural law, Rabbe Axel Wrede, adopted ideas mainly from the Germans Oskar Bülow and Adolf Wach. However, interest in German legal science was not only a Finnish phenomenon. It is

³ See further L. Björne. Den konstruktiva riktningen. Den nordiska rättsvetenskapens historia III. Rättshistoriskt bibliotek. Skrifter utgivna av institutet för rättshistorisk forskning. Stockholm 2002, p. 169.

well known that German legal literature inspired legal professionals in many other European countries as well. A distinctly Finnish phenomenon, however, is that this influence was both long-lasting and quite one-sided.

In the 1920s, many new authors contributed to *Lakimies*. On the 25th anniversary of the journal, it was possible to conclude that 500 articles, 450 court reports, and 80 book reviews had been published. The main focus of the articles had been on criminal law (explored by Serlachius) and on civil law (a key topic for Lilius), but articles on public law (by authors such as Ståhlberg) were published, too. At this time, articles on legal theory and legal history were still few.

The absence of a practical orientation seemed to be no longer a problem. In 1938, during the 40th-anniversary celebrations of *Suomalainen Lakimiesyhdistys*, the existence of its own journal qualified the association as a scientific society. Then years later, the editor-in-chief, procedural law professor Tauno Ellilä, wrote that ‘men of practice’ had not contributed to the journal: the contributors had (always) been legal scholars.

In 1957, 3,300 copies of *Lakimies* were published (today’s equivalent circulation figure is 3,400), and in 1964 the number of pages was 1,155 (today it is around 1,200). At that time, problems of domestic positive law still formed the focus of the writing. During the decade that followed, however, an increasing number of theoretical articles were published. At the same time, *Lakimies* was a journal by law professors. For instance, Veli Merikoski, a professor of public law, wrote 16 articles for the journal in the 1950s; criminal-law professor Brynolf Honkasalo wrote 11; and Tauno Tirkkonen, a professor of procedural law, also wrote 11 articles. For a long time, the only actively contributing female author was Inkeri Anttila, a professor of criminal law. Her first article in *Lakimies* was published in 1944 and the last in 1982.

5. A journal of changes and tradition

The number of authors increased considerably during the 1970s. At the same time, the dominance of law professors among the authors declined. This tendency can still be seen. At the same time, the topics of articles changed. Problems other than those of legal dogmatics were discussed intensively. This can be seen as a reflection of debate on the reform (democratisation) of legal education and the court system in the late 1960s and early 1970s, and of—for the time typical—discussions on the ‘scientific nature’ of legal scholarship and its relationship to other disciplines in the social sciences.⁴

In the 1980s, the profile of authors also changed quite dramatically. For instance, in 1983, the authors of the first three issues were one professor, one assistant professor, and one doctor of law, but all other contributors had only a licentiate or master’s degree. The situation was similar at the end of the decade, and in the following decades, too. The system of funding for legal research was radically reformed (through restructuring of the Academy of Finland) during the 1980s, which opened many new opportunities for the younger generation of researchers. In the 1970s, the main fields of *Lakimies* articles were criminal law (13 articles), procedural law (8), constitutional law (5), legal theory (3), and legal history (3). In the next decade, however, articles on family and inheritance law matters—written mainly by Professor Aulis Aarnio and his students—became usual.

Toward the end of the millennium, the articles became less polemic, less eloquent, and less (legal) political than before. They were studies on systematisation of current law with *de lege ferenda* recommendations. Since the beginning of the 21st century, the authors have been growing (academically) younger. For 20 years, *Lakimies* has also been a journal with a referee system (peer review) in accordance with international models and standards for controlling the scientific quality of articles. Thus, articles have become quite long, detailed, and specialised. They reflect changes in legal education, the harsh competition for research funding, and modern (managerial) professional qualifications.

The decrease in the number of professors among the authors of pieces in *Lakimies* could be understood as a reflection of a weak(en)ing scientific identity of law professors. However, legal scholarship always has ‘dual citizenship’, in that it forms part of science but also part of legal practice. In spite of this, it is the strong position of Finnish scholarship and its theoretical orientation that have helped *Lakimies* to survive, even to flourish. Professors with an interest in problems of legal theory⁵ are still the main (senior) contributors to the journal.

The focus of the articles remains the national legal system, and the main discussion partners of contributors are their domestic colleagues. The international dimension means largely international law or something to do with Europe. References to legal literature written in English have come to surpass those written in German. However, theoretical input is usually received from foreign authors.

This can at least partly be explained by the specific nature of legal scholarship, but also by the role of tradition. Legal or legal professional traditions change more slowly than the legal rules and institutions discussed in a legal journal.

⁴ See further, e.g., P. Letto-Vanamo. – T. Honkanen: *Lain nojalla ja kansan tuella. Moments of Finnish Justice in the 1970’s*. Helsinki 2005.

⁵ Such names as Kaarlo Tuori, Thomas Wilhelmsson, Juha (Pöyhönen) Karhu, and Heikki Mattila should be mentioned here.