
KNOWLEDGE IN PRACTICE

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Abstract: Knowledge is an understanding of someone or something, such as facts, information, descriptions or skills, which is acquired by individuals through education, learning, experience or by discovering. We have to distinguish two forms of knowledge, which is on the one hand “explicit knowledge” and on the other hand “tacit knowledge”. Explicit knowledge is not a homogenous resource, but it can be qualified as factual knowledge, which is verbalized, codified, systematic and formal. Persons have easy access to explicit knowledge and it can be easily transmitted to others. It is transferred through written or verbal media. Tacit knowledge can be defined as skills, procedure and ideas and is learned mostly through experience over time. Tacit knowledge is a personal type of knowledge that cannot be shared simply through written or verbal communication, because it is not codified. Tacit knowledge can be seen as the knowledge practitioners have in their minds. To put theoretical knowledge into practice means to create tacit knowledge. Knowledge in general is an accumulation of education and experience – a mixture of explicit and tacit knowledge. Both forms of knowledge together make the difference between a novice and an expert. An efficient tool transferring collective knowledge into practice is called “Knowledge Management” (KM). Strategies and processes to gather, identify, structure, value, and share intellectual assets of companies. As a kind of “map of knowledge” it is considered as a useful tool to distribute knowledge and is seen as a help to settle in the world of “Practice” more quickly. A “community of practice” (CoP) is a group of people who share a common interest or create a platform with the goal of gaining knowledge related to a specific topic. The members of the group learn from each other by sharing information and experience within the group. The path becoming a lawyer can be a long process in Germany. The university education is marked by the idea, that a lawyer has to understand all branches of law und its system. The German system of studying law followed two predominant ideas, which is Comprehensive Knowledge and a dual education system. A jurist has to understand and to know every branch of law and was prepared with comprehensive knowledge for the next step – walking in the field of daily business matters. Specialization for a certain field of law is a personal and individual matter and doesn’t influence the university education. Comprehensive knowledge should enable the candidate to handle various challenges and to apply their knowledge in practice without being limited on a special kind of theoretical knowledge. Transferring explicit knowledge into tacit knowledge starts with using common sense, empathy and active listening skills. Transferring knowledge into practice needs first at all common sense. Common sense is practical judgement or a basic ability to perceive, understand and judge daily situations without special knowledge and without specialized training or deliberative thoughts. What distinguishes the humanities from the natural sciences is the mode of approach to any question. Knowledge in relation to Humanity means a structured way of thinking, which is a process of putting a framework to an unstructured problem. Knowledge means also critical thinking, which is the objective analysis of facts to form a judgement. Solving legal problems needs a rational, skeptical and unbiased analysis and the evaluation of factual evidence. Efficient transferring knowledge into practice needs structured thinking in both matters and is the only successful way to connect knowledge and practice.

Keywords: Explicit, Tacit Knowledge, Law, Lawyer

I. PREFACE

Volumes have been written concerning “*knowledge in practice*” and the interdisciplinary intersection of the two matters that is of concern today. This topic can be approached from two sides. One side is “Knowledge in Practice – alternatively it is feasible to explore the topic under the title “Knowledge and Practice”. Unfortunately there is no guide-book translating knowledge into practice. It is beyond dispute that there is a permanent dialog between “knowledge” and “practice” and a steady flow back and forth between knowledge and practice.

II. GENERAL

Knowledge is made in universities in the form of timeless, objective, context-free truths about theoretical matters. Practice is real life and is often ineffective and tends to throw people into quandaries, leaving them in practice in a context of doubts and uncertainty about their knowledge.

In ancient times the primary vehicle for the transmission of knowledge was the creation of narratives and the knowledge of the older and wiser was spread via “story telling” towards the next generation. Today all roads lead to Google to create knowledge. The word “google” is already recognized as a verb in leading dictionaries.

1. Definition :

a.) Knowledge in General

Knowledge is an understanding of someone or something, such as [facts](#), [information](#), [descriptions](#) or [skills](#), which is acquired by individuals through education, learning, [experience](#) or by [discovering](#). We have to distinguish two forms of knowledge, which is on the one hand “explicit knowledge” and on the other hand “tacit knowledge”.

aa.) Explicit Knowledge

Explicit knowledge is not a homogenous resource, but it can be qualified as factual knowledge, which is verbalized, codified, systematic and formal. Persons have easy access to explicit knowledge and it can be easily transmitted to others. It is transferred through written or verbal media. Most forms of “explicit” knowledge or also known as “expressive” knowledge can be stored in certain media. The information is contained in textbooks, encyclopedias, manuals, documents and how-to-do videos.

bb.) Tacit Knowledge

Tacit knowledge can be defined as skills, procedure and ideas and is learned mostly through experience over time. Tacit knowledge is a personal type of knowledge that cannot be shared simply through written or verbal communication, because it is not codified. Tacit knowledge can be seen as the knowledge practitioners have in their minds. Often people are not aware of their tacit knowledge and how it can be of value for them or others.

2.

a.) Explicit Knowledge and Tacit Knowledge

To put theoretical knowledge into practice means to create tacit knowledge. Knowledge in general is an accumulation of education and experience – a mixture of explicit and tacit knowledge. Both forms of knowledge together make the difference between a novice and an expert. It is the most highly prized form of knowledge because it is the type of knowledge responsible for creating values. It is not only knowledge about procedures, it is also knowledge about “sources” and how to update explicit knowledge or to determine what is new knowledge or already well known facts. Knowledge about people, clients, customers and opponents is highly important as knowledge about what others know.

b.) Explicit Knowledge versus Tacit Knowledge or “book smart” versus “street smart”

Based on this information that knowledge and practice are mutually supportive, I will introduce you to a working hypotheses, which compares “book smart” persons with “street smart” persons and ask you the following question: Is it sufficient to be only street smart? Book smart is defined as having knowledge obtained from study and books. Mostly students after graduating from the university are scholarly and bookish and this often implies a lack of understanding of the real business world, because of missing practice. Street smart means having knowledge and experience to handle difficulties of life. Being streetwise means you have a situational awareness and can trust your own judgement because of practical experience of daily business life – even without profound theoretical knowledge. Nonetheless - why it is not enough to be only street smart? The essential challenge is to combine both sides of “education” to navigate successfully through business life. Explicit knowledge is the basic knowledge and the ground on which tacit experience can developed in a proper way. This kind of knowledge is a bunch of data and information, which increases the personal actionable knowledge to compete, to increase performance and innovation and to decrease risk of failure. Looking at both forms of knowledge: Experience without learning is more beneficial than learning with no experience. But learning and experience together is unbeatable.

3. Knowledge Management

An efficient tool transferring collective knowledge into practice is called “Knowledge Management” (KM). Strategies and processes to gather, identify, structure, value, and share intellectual assets of companies or an organization in order to improve performance and competitiveness. Knowledge Management is based on the documentation of individual explicit and tacit knowledge and its dissemination within an organization. As a kind of “map of knowledge” it is considered as a useful tool to distribute knowledge and is seen as a help to settle in the world of “Practice” more quickly.

4. Knowledge Strategy

Knowledge Strategy is more than knowledge management. It’s the knowledge about clients, about markets and involves training programs (e.g. after-action meetings) and practice groups meetings to increase the individual as the collective knowledge.

5. Communities in Practice

A “community of practice” (CoP) is a group of people who share a common interest or create a platform with the goal of gaining knowledge related to a specific topic. The members of the group learn from each other by sharing information and experience within the group and have the opportunity to develop personal and professional

knowledge. Communities of practice are not a new phenomenon. This type of learning has existed for as long as people share their experience through telling stories.

III. LAW STUDY IN GERMANY

The path becoming a lawyer can be a long process in Germany. The university education is marked by the idea, that a lawyer has to understand all branches of law und its system. Therefore a jurist can work in every field of law and in any legal profession. After finishing successfully the second law degree the aspirant can work as a lawyer or as a judge or in which legal field he wants or gets a job.

1. First Law Degree

After finishing high school the law student enters law school at the university and prepares to take the first degree in law after round about 9-10 semesters, which means after 5 years.

The study is divided in three main legal areas, which are private law, public law and criminal law. At the end of each semester and after finishing a special legal field the student has to take a written exam and additionally to write a seminar paper in order to handle more complex subjects. After passing all the exams in every legal core subject the student starts to prepare for the first law degree, which lasts normally one year. The first law degree tests the understanding of the legal system, as well as handling difficult and complex legal issues under time pressure. The first law degree consists of several written exams, which lasts 5 hours each. If a student has passed the first law degree he is entitled to work as an advisor, but he is not qualified to work as a lawyer or as a judge.

2. Second Law Degree

Before the candidate passes the second law degree he or she has to undertake a mandatory clerkship that takes two years. During this period the graduate has to learn practical skills in different law fields and in several legal professions. This is the time to learn the daily work of practitioners. During the clerkship the graduate works at the civil court, criminal court or with a prosecutor, administration court or at the public administration and with a lawyer or in a law firm. The second law degree consists of up to 11 written exams and ends with an oral examination of all fields of law. After about seven years and after passing the second law degree the candidate can work as a lawyer, as a council or as a judge.

3. Doctoral degree

The Doctor of Laws is the degree in law, abbreviated as Dr. jur. (*Doctor juris*). Admission to start the doctoral degree usually requires the grade of "Fully Satisfactory" in the student's first law degree. Having successfully passed the second law degree is not required. To obtain the doctorate degree, the graduate must write a research paper, the so-called "Dissertation". The thesis must have been published as a book. The dissertation adviser should oversee the work and support the graduate in writing the research paper.

During the oral examination or so-called "Rigorosum" the graduate has to defend his dissertation before a doctoral awards commission of the university and additionally his or her legal knowledge in general is tested again.

4. Summary

The German system of studying law followed two predominant ideas:

Comprehensive Knowledge:

A jurist has to understand and to know every branch of law and was prepared with comprehensive knowledge for the next step – walking in the field of daily business matters. Specialization for a certain field of law is a personal and individual matter and doesn't influence the university education. The educational philosophy, which still influences the way German universities structure their studies, is based on a holistic approach, which also means general knowledge. General or comprehensive knowledge should enable the candidate to handle various challenges and to apply their knowledge in practice without being limited on a special kind of theoretical knowledge.

Dual education system:

The academic system is divided into a theoretical and a practical training and each period of university education must be passed successfully.

IV. TRANSFERRING KNOWLEDGE INTO PRACTICE – WORKING AS A LAWYER

The practice of law is never routine and a typical day can vary dramatically. It can include attending court hearings; meeting with clients, advocating companies, respond to complaints, drafting documents and so forth. Lawyers in daily practice have to argue – discuss – write – calculate – mediate – council – judge – subsume – listen – convince – persuade. Now it's time to transform theoretical knowledge into practice. Novices are used that all essential facts and circumstances of the case are already worked up for them and they can start with solving the legal problem based on their acquired skills and theoretical knowledge. The first lesson of practice starts the moment the novices meets the client and has to clarify all circumstances of the case before starting solving the legal issue. Clarification

of facts based on subjective statements of clients can be a great challenge. Additionally clients are often up set, angry or afraid and often are not able to distinguish between important and important facts. Every client is a different character with different behavior. The application of theoretical knowledge has to be postponed until all facts and circumstances are inquired. Transferring explicit knowledge into tacit knowledge starts with using common sense, empathy and active listening skills. Transferring knowledge into practice needs first at all common sense. Common sense is practical judgement or a basic ability to perceive, understand and judge daily situations without special knowledge and without specialized training or deliberative thoughts.

What distinguishes the humanities from the natural sciences is the mode of approach to any question. Humanities focus on understanding, meaning, purpose rather than explaining the reason of events using standardized procedure. Knowledge in relation to Humanity means a structured way of thinking, which is a process of putting a framework to an unstructured problem. Knowledge means also critical thinking, which is the objective analysis of facts to form a judgement. Solving legal problems needs a rational, skeptical and unbiased analysis and the evaluation of factual evidence. Efficient transferring knowledge into practice needs structured thinking in both matters and is the only successful way to connect knowledge and practice.