

TEACHING ABOUT "CULTURE" IN MY "ISSUES OF LAW, POLICY AND ETHICS
IN GLOBAL TECHNOLOGY" SEMINAR.

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<http://www.law.suffolk.edu/faculty/directories/faculty.cfm?InstructorID=29>

INTRODUCTION

This is a required course for LL.M. students and International Exchange students. I have about 40 students in the class usually, roughly half U.S, including some LL.M.'s and some J.D's, and the other half is international, both LL.M.'s and Exchange Students. Some of the evening students have substantial practical experience in various fields of both law and technology, and some of the day students are interning in big firms downtown.

THE COURSE

My desire is to get them to share their different perspectives on a number of problems that the law faces because of very recent technological advances, such as, embryo research, the genetic engineering of products and persons, organ donation, euthanasia, as well as issues like privacy, freedom of expression, and the role of the media in the age of the Internet, all of which have also been affected dramatically by the new technologies. For the Syllabus of the Course, go to
<<http://www.law.suffolk.edu/faculty/addinfo/hicks/>>

Before discussing in class the role of law in solving these new problems, I suggest that we all have different ways of looking at the problems, because of our cultural orientation. This is a more practical challenge, rather than a theoretical one. In a sense, our culture is invisible or natural to us. I ask how many people have lived in other countries for some period of time.

I ask if they would say they were from the east or the south. My agenda is about "assumptions," and one of the first challenges I introduce concerns our picture of the world: <<http://flourish.org/upsidedownmap/>>

I tell them about my own background. I ask if they have misunderstood American English, or if they have been misunderstood:
<http://download.qsnetwork.com/view_file.php?fileid=223> (slow to load, see slide 9)

CONTEXT: STAGE ONE

I propose a number of hypotheses in my introductory classes with regards to global technology; they are put forward as "assertions" for me to defend, and for students to challenge, such as: 1. that we are witnessing a new stage of human history in the west,

at least akin to that known as the Industrial Revolution; 2. that we are in a state of crisis about globalization and technology, that is, there are no limits to them, no normative constraints in them, and that everything is out of control; and 3. I assert that the real crisis is because for the first time in history we are able to remake "life" through technologies, such as genetic engineering, robotics, embryo and organ experimentation, virtual realities and the storage and dissemination of enormous amounts of data.

My point is that this changes: first, the meaning of our "being human," since body parts can be made in the lab, and second, "our world," as if it were out there, objectively real and scientifically knowable, which it is not any more, and third, also, our "way of thinking," since information is now primarily processed by machines not our brains.

I do not attempt at this stage to claim that this is significant in, for example, a postmodern way. I do that later in the course when I propose that media, images, sound bites, the virtual and the visual have constituted our experience in ways that are totally different from our experience of the world, even as recently as in the middle of the twentieth century, to which I can attest, since I began teaching before the advent of copying machines.

The big questions that guide the course, are first, whether we are moving to a global culture, or not, and what that would look like, for example, to the international students in the class, and second, whether that universalism of norms and values rests on a universal human nature. I keep coming back to these two questions.

In this regard, it is suggestive to point out how very different customs are around the world, and how we have to adjust. I show them, for example, "business etiquette" <<http://www.cyborlink.com/>> The site on the U.S. is illuminating because it demonstrates to the U.S. students how invisible our culture is to us <<http://www.cyborlink.com/besite/us.htm>>

PREMISE: CULTURE

My first move is to ask them how, and with what concept, we should begin to think about "Issues of Law, Policy and Ethics in Global Technology". Most law students have not thought about this at all. But usually, there is no argument that we might as well use the concept of "culture" as a starting point for further discussion. I do not try to achieve consensus around a definition of culture. It is enough to set the stage with it, as our most abstract concept today, and I provocatively suggest that it replaces "the world," "reality" or "society."

I mean by "culture" the expressions of our entire basic orientation towards everything: its products, its modes of reproduction, and its articulations. This encompasses everything, all our beliefs, norms and practices. Culture, therefore, is more than the normative information embodied in a tradition; it is also the practices and ways of doing things with such information. In order to understand a culture, we need to see how norms are applied and what that means to people. (I usually hand out this two page

report, which shows how very differently a simple injunction is experienced in different countries of what we would think of a single culture).

<http://www.law.suffolk.edu/faculty/addinfo/hicks/MuslimsAndApostasy.pdf>

"Ways of life" is a good shorthand phrase for understanding the word "culture". This is our subjective, personal experience of being in a collective. I refer to the initial resistance and subsequent acceptance of Japanese "umami," as a fifth sense of taste in addition to our sweet, sour, salty and bitter, original western senses of taste. We live through the way we taste, and we taste things the way our culture presents them to us.

Obviously cultures may be relatively stable or closed, (think of indigenous aboriginal ways of life in comparison with religious ways of life) or they may open and actively responsive and evolving. In either case they are constructive of meaning, (I tell them to think of different cultural forms of mental illness, such as "amok" in Malaysia), but that meaning may not be simple or beyond contestation (think of heterosexuality and homosexuality, or single parenting and the nuclear family).

I argue to the class that culture is deeper than the contrasts of east and west, developed and developing, religious and secular, ideological and non-aligned. The differences are not just political or economic, but rather lie at the level of social organization, caste, kin or family, within which possession, ownership and exchange; power, control and authority; justice, morality and absolutes, all function for most people. (I tell them to think of differences concerning risk and fate; or what constitutes happiness or beauty; and especially of time, that is, for me history is past, it does not exist in the present as it does for some cultures, and I do think of it as linear, it has gone away.)

Consistent with my earlier assertions, I suggest that global technology changes our basic orientation towards everything, our entire way of life. In other words, it calls into question unquestioned assumptions, about what is natural, real, and obvious, from which we derive our values and judgments upon which we base decisions; that is, our assumptions drive our values, and they are being undermined by global technology.

CONTEXT: STAGE TWO

Of course, some students wonder what this has to do with law. However, I do not articulate a philosophical theory of the relationship of law to culture. That is for the legal philosophy course. But "culture" meaning "ways of life" is nevertheless approachable through the familiar categories of religion, law, ethics and politics; that is, I suggest that these categories are all we need in order to understand our ways of life. In different cultures, there are different proportions of them in the mix. The point here is not to map the world's legal systems, rather, that is for the comparative law course, but only to get everyone, to appreciate that they do have a "culture," a way of life, which underlies their legal, political, ethical or religious orientations.

Using the differences between law, religion, politics and ethics, I develop an account of modern western law as the historical evolution of the tensions and

contradictions between the Judeo-Christian and the Greco-Roman traditions which became resolved in the nineteenth century in the nation state in what we now call the rule of law. This defines for the purposes of the class, provisionally with some students' unarticulated reservations, our western "cultural way of life," namely its individualism, separation of the public and private, relative autonomy of the state from society, and direct personal participation in the two forms of community, the state and the market.

I present this as our liberal, democratic and capitalistic arrangement of law, politics, religion and ethics. Law, like politics, ethics, and religion in the west, is a site of contestation, but I assert that it is the primary one, where policies, beliefs and values are harmonized, through the rule of law. With all this up for discussion, I inform them that we are putting aside "law" until we get to the particular topics and problems in the syllabus, and how best to resolve them, whether with law, politics, ethics or religion.

Therefore, at this early stage of the course, I suggest that the place for us to begin is from the bottom, not with the surface arrangements we all know so well, but within ourselves and our acculturation.

CULTURAL ASSUMPTIONS

My next move is to ask about our deepest assumptions. I suggest that we all make assumptions about "man," world and thinking, namely that we are rational, that matter is real, and that there is a dualism of matter and the immaterial (mind, spirit) and that our uncertainty about this dualism makes us pragmatic (at least in the west). Someone will claim that the world is real, the same for everyone, and we all know this. To which I might say the opposite, and use a visual illusion to make the point that we literally do not always see or interpret accurately <<http://www.michaelbach.de/ot/>> (in particular, the hering illusion and the checker shadow illusion).

However, the point is less to claim that what I say is true, as it is to get everyone to recognize that they do operate within such abstract and general assumptions about the world, and most importantly that these assumptions are culturally conditioned. For example, I show that brain studies reveal differences in perception across cultures. http://www.boston.com/news/science/articles/2008/03/03/cultural_insights/

Of course, with that insight I can ask about universal human nature and global (legal) culture. Are we all the same? If so, or if not, how did we get to be the way we are in the ways of life we live?

This leads me to ask to what extent culture might actually constitute our experience, rather than we be the active creators of culture. This comes up again later in the course when we discuss the new media and what difference computers have made to our experience of the world. So I ask if they think they are "programmed" in any way. If I have time, I show this video, which invariably proves that we overlook the obvious when our minds are led astray by a cultural blind spot, much like a magic trick succeeds when

we are distracted off to the side. I tell them to watch the basketballs and tell me what they see in this short video.

<<http://viscog.beckman.uiuc.edu/grafs/demos/15.html>>

At this stage of the course I assert that we do have assumptions which color our values and judgments about issues brought to the forefront by global technology, such as genetic engineering. Global technology challenges us to think differently about the meaning of life. Therefore, I urge them to be open with the class in sharing their cultural ways of life so we can all see how problems may be solved differently in different cultures, because of our different fundamental assumptions.

Again I ask if there is a universal human nature, and now I ask if there is a right, universal, or true, or "natural" way of life and culture.