

Lessons from an American in the Gulf States

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I. Introduction

Over the past three years I have had the pleasure of working with law faculties in the Middle East, principally in the State of Qatar and the United Arab Emirates, on matters relating to the teaching of commercial law. My work is part of an initiative of the US Department of Commerce, Commercial Law Development Program. The project focuses on both substantive legal principles, including the curriculum, and teaching methods.

The experience has opened my eyes to the challenges a foreign law professor faces in presenting what one would consider to be a fairly harmonized body of law. Indeed, certain substantive principles draw on *lex mercatoria*.² Procedural issues relating to arbitration of disputes are set out recognized arbitration rules and treaties. The perceived shared legal landscape, however, has become more nuanced in my mind as I have watched Gulf students tackle mock problems in a more theoretical, formal and arguably structured manner. The experience has also provided insight into the broader issue of the most effective way to teach legal principles in an environment that at first glance appears quite different from the typical U.S. law school classroom.

II. Teaching Activities in the Gulf

By way of background, both Qatar University College of Law and United Arab University College of Law are state-sponsored law faculties. Members of their law faculties and the students, as well, predominately come from the respective host nations as well as from other nations in the Middle East. The fact that the students and faculty are from a number of nations, although predominantly Arab ones, brings an interesting dynamic to the environment.

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² For an interesting discussion of *lex mercatoria* and reference to it in the context of the Gulf, see Joanna Jemielniak, *Legitimization Arguments in the Lex Mercatoria Cases*, 18 INT'L J FOR THE SEMIOTICS OF LAW 175, 203 (2005).

Courses are offered in Arabic although both schools have recently launched law courses in English. Law is offered as the first degree. The faculties have separate classes based on gender, although during my visits I have sometimes spoken to mixed classes. Interestingly, on a recent visit to the UAE University, I conducted a class session on international commercial arbitration with women students early in the afternoon and later in the afternoon I watched men students conduct a mock criminal trial in the law faculty's moot court room.

In recent years, the law faculties have undertaken a review of their curriculum with a particular focus on commercial law. International law firms are cropping up in the region. Economic growth, particularly in major cities, *e.g.*, Dubai, Doha, Abu Dhabi, has made commercial law very attractive to qualified law graduates. Students at Qatar University and UAE University are fluent in Arabic with some of them fluent in English, French and German.

My work has sought to facilitate the curriculum review requested by the law faculties. I've also worked with the faculty regarding course material and teaching methods. In the course of this activity, I have taught class sessions to students and provided lectures to the faculties, as well as helped with a teaching workshop in 2006 sponsored by Qatar University for law faculties in the region.³ Professors Ronald Brand and Haider Hamoudi of the University of Pittsburgh School of Law also participated in the workshop, which covered a variety of topics, including a strong focus on the use of the problem method in teaching commercial law. Professor Brand, Professor Hamoudi and I have worked with students from various Gulf law faculties in preparing them for international moot court and moot arbitration competitions.⁴

While an essential part of understanding legal education involves the classroom itself, a critical aspect also involves developing an appreciation for the larger societal context in which the law operates. Hence, time has also been spent meeting local judges,

³ The law faculties participating in the workshop included those from Qatar University, the United Arab Emirates University, Kuwait University, University of Bahrain, Sultan Qaboos University, Ajman University, and Sharjah University.

⁴ Professor Mohammed Al-Moqatei from Kuwait University (who has been active in the International Association of Law Schools from its inception) organized the first Jessup International Moot Court team from the Gulf. This year both Qatar University and the United Arab Emirates University sponsored Jessup teams at the international competition in Washington, DC. Professor Brand is helping the University of Bahrain's first Willem C. Vis International Commercial Arbitration Moot team.

government officials, and private lawyers. An interesting fact is that judges are not necessarily nationals of the nation in which they sit as judges. Indeed, it is common for Sudanese and Egyptians to serve as judges in the local courts. Further, both Qatar and the UAE have a foreign population, mainly individuals from India, Pakistan, Bangladesh, the Philippines, and Sri Lanka, which make up a substantial part of the labor force in the region.

III. Lessons

Every law professor brings to the classroom certain pre-conceived notions of what will be the most effective way of teaching a specific subject matter to a certain group of students. The notions are based on a variety of factors, including the professor's own experience as a student, the environment in which the professor regularly teaches, and the customs and practices of the professor's colleagues and the academy in general in the professor's home nation.⁵ The notions are also based on the audience, that is, the students, and they typically reflect the expectation and abilities of the students. At times, the subject matter itself may shape the teaching approach. Obviously more factors are involved in the shaping the approach but these are some of the principal ones.

The dynamic gets complicated when the students' principal language, Arabic, is not the language of the instructor. Further, the manner in which some of the students are accustomed to learning, mainly through lectures with a strong theoretical foundation and focus, differs from the traditional case method of instruction, and this fact can lead to interesting developments.

One's assumptions about the likely differences, even obvious ones, however, may be incorrect. For example, at Qatar University, the problem method was used to focus on the interrelationship between municipal law and the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards. In working through the problem, the Qatar University students drew out many of the issues and concerns that my law students in the United States would raise. The problem, which involved a foreign hotel under construction in Doha, was drafted with the intent of having the students focus on an issue likely to occur in their own business community. A translation issue,

⁵ I say "home nation" but the term must be considered in the context of the increasing number of law professors who teach in law faculties that are removed from the nations in which they are citizens. The development is common in the Gulf with many faculty members coming from Jordan and Egypt.

however, caused an interesting development as the term “arbitration” when translated from English into Arabic did not convey the sense of finality as intended. When a variation of the problem was used at United Arab Emirates University (and tailored to address a business matter arising in Abu Dhabi) the same translation issue arose. The translation issue aside, the discussion proved quite dynamic and illustrated that the students were willing to engage with the teacher. It also demonstrated that the students had a grasp of certain of the relevant substantive principles.

Another similarity involved the interaction among the students themselves. Like students in U.S. law schools, many of the students preferred to remain silent while a couple of the students took the lead in the discussions. The former, however, were still quite engaged in the class activities as evidenced by side-bar discussions they would conduct with their classmates during the class session. Further, the students in the Gulf, like my students in the States, appreciated some form of mild (self-deprecating as to the professor) humor in the classroom.

The principal difference in terms of what transpired in my classroom in the Gulf versus the classroom in the United States is one of approach. The Gulf students’ approach tended to be more theoretical. The students tended to focus intently on the relevant legal principles and steer the discussion back to them. Students in US law schools, due to the case method, are forced to concentrate and grapple with the facts. This difference may be the obvious one that comes to mind when the two systems are described in the abstract, yet it became very apparent to me after the course sessions in the Gulf.

IV. Conclusion

The difference in approach has caused me to re-examine how the problem method could be used in my work with the Gulf law schools. The use of a hypothetical problem without some substantial discussion of the relevant legal framework is probably not the most effective use of classroom time. Further, the difference has made me appreciate the role of co-curricular activities, mainly moot courts, in forcing the students to use the law as an active and malleable tool for resolving disputes. Indeed, some of the law faculties in the Gulf are supporting their students in moot courts and they are also

expanding the curriculum to offer clinical courses. In addition, the understanding of the difference has caused me in my own teaching in the States to focus more on legal theory, as I appreciate the need for a broader perspective on the cases and problems presented to the US law students.

We will be fortunate to have at the Montreal conference professors from some of the Gulf law faculties. The professors' perspectives on these issues will shed more light on the effective teaching of commercial law in their own law faculties.