

Effective Techniques for Teaching about Other Cultures and Legal Systems
Teaching Experience at the Faculty of Law, Masaryk University

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The education of students in the area of foreign legal cultures and legal systems, as well as in the area of foreign legal orders should be a standard component of the studies at law faculties. Despite varied integration processes, law has always been tied up with specific social, economic and political conditions of the given state and the state's unity with a certain legal culture and legal system. Nevertheless, legal cultures evidently influence each other and often blend together, which is particularly apparent in the case of Continental and Anglo-American legal cultures. As a result of migration and behavioural norms, which stem from the immigrants' original, often fundamentally different, legal cultures are more or less transposed into "home" legal systems. Therefore, the understanding of law as a normative system in a wider context and the successful performance of legal professions is significantly connected to the knowledge of law, its development and function, which goes beyond the knowledge of the nation's own legal order and system.

The Faculty of Law at Masaryk University implements the education of its students in the above mentioned areas at several levels.

A very traditional and important component of the study programmes particularly at the Central-European law faculties is the study of 'Legal Theory'. In the case of the MU Faculty of Law, the '**Legal Theory**' course is one of the compulsory courses in the first year of studies and constitutes thus the basis for the study of individual legal disciplines. Moreover, the 'Legal Theory' course also covers the issues of so-called large legal systems. Using the comparative method, students are introduced to the foundations of legal cultures out of Europe, to the differences among them, for example, regarding the sources of law, the role of a judge, the importance and influence of other normative systems (religion, morality) etc.

The next level in gaining knowledge of foreign legal systems and orders are **specialised courses** taught by "home" teachers in either the Czech or English language. It is currently possible for the students to choose a course from a broad range of selective courses, which are

all comparatively oriented. The following courses can serve as examples: *'History of European Legal Thought'* (i.e. Continental law versus common law, Continental legal thinking versus jurisprudence, the root of European legal thinking, the main ideas of modern European legal thinking), *'Constitutional Systems'* (a comparative overview of contemporary constitutional systems of the USA and European countries), *'Comparative Political Science'* (comparison of selected political systems of USA and European countries), *'Public Administration in the Czech Republic and Europe'* (the main European public administration systems), *'Basics of Polish Law'* (a course taught in Polish, with the focus on selected problems of constitutional, administrative, financial, criminal, civil and commercial law). The range of courses also reflects on the development of modern communication technologies and the effect of law in cyberspace. For example, students show a great interest in the *'Normative Systems in Cyberspace'* course, which covers the classification of normative systems, Islamic law and information networks, or the *'Critical Legal Theory'* course where the current problems of Continental and Anglo-American Law are discussed.

The grasping of foreign legal systems would be of course impossible without direct contact with “native” lecturers who can use their great expertise to present information, get involved in discussions and answer students’ questions. Therefore, there is a strong tendency at the faculty to offer as many such opportunities as possible either in the form of **lectures and seminars taught by visiting professors or via specialised courses**. A programme of courses taught by visiting professors in other languages than Czech was started last year and received great publicity amongst students. The programme’s main purpose is to offer a wide variety of intensive courses in the length of a minimum 12 teaching of hours, with the focus on selected problems of a legal system, legal order or a branch of law. These courses are included in the faculty’s study programme and students are awarded credits for the successful completion of the courses. An example of such a course is the *'Legal Cultures of the World'*, which was taught last year and focused on the specific features of various legal cultures. The course offered a comparative perspective both to the general concepts of law and to particular nuances of the Czech, Belarusian, Indian, Iranian and Australian systems of law. The course hosted distinguished lecturers from the respective countries who presented authentic analyses of their legal cultures.

An example of another very successful project is the *'School of Austrian Law'*, which offers a unique opportunity for students with a good command of German to acquire the knowledge of Austrian private law. The best students in this programme are also offered

traineeship positions at Austrian firms. This project is implemented in cooperation with Wirtschaftsuniversität in Wien.

Additionally, students gain knowledge of foreign legal systems and orders **as part of their Czech law studies**. For example, this is typical within criminal law studies where I am one of the teachers. In teaching the criminal procedure it is necessary to make a comparison particularly with the Anglo-American procedure. Although the Czech criminal procedure is by its nature a Continental type of procedure, its development since the beginning of 1990s is characterised by the gradual acceptance of certain Anglo-American juridical institutes in the Czech procedure leading to the creation of a sort of mixed type of procedure. For example, the deflection from the criminal procedure, the introduction of certain elements, which empower the contradictive nature of the procedure etc., are all evidence of the blending of the Anglo-American and Continental criminal procedure principles. Therefore, when teaching this branch of law, it is necessary to explicate to the students the origin of some juridical institutes, draw the students' attention to the similar and different features of the Continental and Anglo-American criminal procedure and to the specific influences the different principles may have on the practical application of this branch of law, etc. A further demonstration of the influence that Anglo-American law has had on Czech law is the development of a penal system within Czech criminal law whereby the concept of alternative penalties and the restorative justice principle were introduced. Furthermore, it is also, for example, worth comparing Czech law and Islamic law. A large number of similar instances of comparisons can certainly be found also in the relation to other branches of law.

Apart from direct teaching, students are encouraged to acquire knowledge of other legal systems and orders also via other methods. The prerequisite for the graduation at the MU Faculty of Law is to pass the state final exam, which also consists of the **Diploma thesis defence** or **Bachelor's thesis defence** in the Bachelor's degree programme. The theme of the thesis can either be selected from the list of proposed themes offered by individual teachers or students propose their own themes. The theme proposals are in the majority of cases explicitly aimed at the international comparisons. Furthermore, the comparison of foreign legal orders is a standard component of the theses where the primary focus is on Czech legal issues. An appropriate proposal of the thesis theme may thus induce students to develop a deeper interest in the above mentioned area; the students are motivated towards systematic research and study of foreign resources.

With regards to the teaching methods and approaches, it can be argued that obviously there must be certain differences in teaching law within individual legal systems. This is evident

from the case of common law and Continental law where the differences in the sources of law partially require a different teaching approach. While in the case of common law the teaching approaches rather take the form of clinical teaching by means of case law, in Continental law, on the other hand, the main focus is on the text of the legal code, its interpretation and application in the specific context. Nevertheless, it is evident that a higher importance is placed upon the practice of the courts also in the Continental law, which gets reflected in the law education.

In my opinion, the education regarding other legal cultures within the studies at the “home” law faculty requires no specific methods in comparison to the education regarding the nation’s own legal system. The focus should be rather on creating an appropriate combination of traditional teaching methods, i.e. lectures and seminars, with the more modern teaching approaches making use of information technologies. The Faculty of Law at Masaryk University uses a highly effective information system, which enables a wide use of e-learning. The development of e-learning has been one of the main focuses of the university over the past five years and it has become the most popular form of teaching among the students as well as the younger generation of teachers. The applications within the information system allow the creation of interactive curriculum, the distribution of study materials, the submission of seminar papers, student-teacher discussions, as well as student forums and other activities. For example, the above mentioned courses such as ‘Critical Legal Theory’ and ‘Normative Systems in Cyberspace’ make full use of the information system tools. E-learning does not replace the direct teaching methods and face-to-face student-teacher contact. However, it appropriately complements the traditional teaching methods and also gives the students the opportunity to be fully prepared for lectures or seminars.

Furthermore, the ‘Public Health Protection’ course taught by a visiting professor from the U.S.A. has received wide publicity among students as a result the fact that the course has brought about new teaching approaches. The students discussed a specific topic with the students at the John Marshall Law School in Chicago via the Internet telephony mechanism of Skype.com.

My aim was not to provide a complete overview of all the possibilities that the faculty offers to its students. My intention was rather to present a few specific examples, which would demonstrate the approaches our faculty takes in the education of students in this very important field.

In conclusion, I would like to sum up this paper by stating that the acquisition of knowledge of other legal cultures, systems and orders takes a high precedence at a time of the cultures

influencing each other and blending together. And law faculties thus play a key role in the process.

Abstract:

The aim of this paper is to present the teaching experience in the area of foreign legal cultures, legal systems and orders at the Faculty of Law, Masaryk University, Brno, Czech Republic. The author of the paper discusses the specific possibilities in the education of students in the given areas, as well as teaching methods and approaches that are used and developed.