

What have we learned from each other? What can we learn from each other?

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Abstract:

This article address political question doctrine that may play core role in the process of teaching law by the schools of law and helping in building up ties of connection between schools of law. Internal rules of law in any state often impose explicit constraints on the schools of law with regard to the types of teaching methods and with regard to law-school of thought that should be taught. These restrictions may serve to entrench fundamental principles or may simply reflect historical compromises. Law-teaching that violates such restrictions may be ruled unauthorized.

The case for policy review must be supported by a philosophical outlook that views teaching law rights as antecedent to the positive law. It will continue by mentioning four different legal philosophies: civil law, common law, Islamic law, and communist law. each of which considers law-teaching rights as antecedent to positive law in the sense that the morality or justice of the positive law can be ascertained by reference to law-studying rights. While the four perspectives are by no means exhaustive, they may be taken as representative models of those viewpoints which, to a great extent, shape the contours of contemporary political debate regarding issues of teaching law.

Introduction:

The existing legal systems of the world are civil law, common law, Islamic law, and communist law. Each of these systems is considered as a school of legal thought which can be taught by the schools of law. As to the Civil law system is considered as the oldest one and the most influential of the other legal systems. Its root goes back to the Roman law, which was the issue of a brilliant civilization extending from the Mediterranean to the North Sea and from Byzantium to Britannia.¹

The common law system was born in England and the main feature of it is that it is largely case law or more precisely, a judge-made law. The bulk of common law and equity has not been the work of parliament, but is developed through the time.²

The communist legal system adopted in some countries of the world, exactly former Soviet Union and Eastern Europe, this system is based mainly on the communist ideology which affected the structure and the organization of the communist system.³

Finally, Islamic legal system is a group of rules that have particular expression to the religious faith and aspiration of the Muslims. The whole of the law is derived from religious and ethical considerations. It uses standards and religious and moral rules to measure each institution, transaction, or obligation, such as the prohibition of interest, the prohibition of uncertainty, the concern for the equality of two parties, etc.⁴

The question of this paper is not to study these law systems, but to study the policy of faculties of law in having interest in teaching this legal system. The schools of law have different approaches to these legal systems, some of which adopt free teaching system, others adopt case teaching system, and others adopt mixture teaching system.

1. Free Teaching System:

In this model of schools of law, studying law like life and liberty is a natural right. By doing so, they hoped to free law-teaching from the prerogative of the governing ideology of the state. Schools of law in adopting such ideology in teaching Law do not make distinction between these legal systems in terms of teaching them. The students of law, according to this model of teaching law, should learn and understand all legal systems that are in the world with the purposes of extending their knowledge in terms of legal schools of thoughts that govern the world and as part of the national policy in terms of freedom of learning. However, it does not mean that the schools of law should have these legal systems in their curriculum. The point is to remove any political and legal barriers that may block their way to know about others legal system.

2. Case Teaching System:

This model of teaching law is based on some political and social dimensions that prohibit other ideology to have effects on the people of the state concern. In order governing regime to continue in power exert all efforts to make their governing ideology as the best in the world and to be considered as a sacred right which can not be changed or modified by other thoughts. In the light of this viewpoint, law students who will draw the legal policy of the state in the future have to believe in this policy and to apply it by only learning their ideology and reject others ideologies. The role of law schools in such states is to foster the principles of their states and to graduate priests rather than lawmen.

¹ Zaid Aqayleh. Terminology of law, 2004. p11.

² Ibid P17.

³ Ibid P41.

⁴ Ibid P 46.

3. Mixture Teaching System:

Some states adopt different legal systems to make their domestic laws. Mainly they adopt civil law system and common law system or Islamic law system. Therefore, as they teach their local law, they actually indirectly teach these legal systems.

4. What have we learned from each other?

As one of the law school leadership and law tutor, the extent we have learned from each other depends on the policy we adopt in our law school in teaching law.

The decision-makers in law schools are responsible on having network connections among law schools either by means of students or professors exchange program or by means of joint projects. I can judge that many law schools have different relationships with other law schools; some other law schools still to do more in this issue, and others have to think about the merits of having such connections. For example, Yarmouk university faculty of law has been trying its best to have as large connection relationships as possible with different law schools from different countries.

Again, it is the decision of the schools of law to strengthen the ties between them in order to communicate the ideas we have and to improve our teaching systems and goals, then we will be able to have core effect in the changing world.

However, there are many challenges to reach such aim, mainly finding financial sources, changing education rules that may prevent such approach. And finally, invitations from law school to their leadership to adopt open and transparent policies to run the faculty.

5. What can we learn from each other?

This is an important and critical question to ask and the answer should be frankly and comprehensive. Therefore, the principles we would like to study in this regard is mainly concern the background of knowledge, should we believe in our law background and refuse and foreign idea or what?

The example I would like to display here is the law and its practice in international arena. In international disputes before international court or arbitral tribunal, the people who involve in such tribunal as judges or arbitrators should be carefully chosen. The point is to have neutral tribunal that seeks justice in applying whatever legal system rules. Therefore, judge or arbitrators with civil law background is judging by applying for example common law rules or other legal system rules.

Neutrality is the main concern; therefore avoiding partiality is the main principle in making network of connection between the schools of law.

The second point is to have a forum form which we can launch our interactive relationship and such forum must be trustworthy by all members.

6. Conclusion:

All legal system shall be treated equally and the door shall be open for movements of legal school of thoughts between the schools of law. To reach such aim, many steps need to be taken by for example the IALS and other organizations. Finally, I would like to conclude my paper let us avoid ask this question how could legal system of private ownership arise from the original legal system of joint ownership? Otherwise there will be no answer.

Following this description, do we need to consider which law-teaching structures would conform to the principles of national preservation and equal protection as understood by

each of above mentioned perspectives. Finally, we should argue that is the choice among the various law-teaching structures is inherently political?