

Observations on Student Exchange Programs between Faculties of Law: An Eyewitness Account on the Efficiency of “Cross Culture” Law Education

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Introduction

Student exchange programs between higher education institutions are no longer an extra dimension of academic endeavor; they have become an essential necessity for these establishments which wish to achieve higher standards both vis-a-vis educational goals and the possibility to attract higher quality students whom are not only interested in the academics the institution has to offer but also with mobility and initiatives available during the study period. Within this context, all higher education institutions offer more or less a diverse range of study abroad / exchange programs and wish to participate into existing programs to the fullest extent possible. For instance, the University of Bahçeşehir, a relatively new university, has exchange agreements with eighty-two Universities in thirty-one different European countries under the Erasmus Exchange Program and thirty-four Universities from sixteen different countries from Asia, America and Africa under an International Education Program. In 2009-2010 thirty students of foreign origin have started their full-time education within a graduate program at the University.

Although beneficial in many aspects, these programs may have some features which deserve a critical observation; especially with regards their application to the field of legal education. Within this context this short paper will try to expose some shortfalls in standard student exchange models and will try to propose an alternative, if not utopian, model which we might be delved upon in future debates. We must acknowledge that the paper will be concentrated less on a conceptual analysis of student exchange models or on any empirical data which we have gathered, but will in essence consist – as indicated by its title – of personal insight gained during years of lecture, through focus groups and face to face dialogue with exchange law students (namely about their expectations and their disappointments) and through observations of colleagues from different institutions. We believe that insight can also be gained from sharing personal day to day experience with exchange law students (whom are in fact sometimes extremely frustrated). To this end, the first part of our paper will try to expose some lacking aspects of standard exchange models observed in practice and the second part will focus on a different model which should be open to debate.

I. Some observations about the “standard” student exchange model in legal education

During our past experience we have noticed some principal shortfalls in the application of a standard student exchange model. Admitting the numerous benefits that student exchange offers for students and faculty alike, a critical approach also carries its own benefits; namely the amelioration of existing models and gaining insight into alternatives which might be built upon. We may summarize our main findings under three distinct, yet interlinked categories.

a. Lack of courses of interest: the language barrier

One of the greatest difficulties that exchange students face is the lack of classes of common language (in most cases English) of interest to students. For example, in the case of Turkey even though universities participating in student exchange programs all offer English education, or at least English courses for exchange students, in practice it has been observed by foreign students in

Turkey and outgoing Turkish students, that most courses dealing with domestic law, in order for the integrity of the class and the provision of proper legal education to national students, are conducted in the national language and it is left to the discretion of the lecturer whether to provide separate English classes for exchange students. Within this respect, exchange students whom due to the condition of credit fulfillment have to choose a certain amount of classes not only face a limited amount of choices, they also are forced to choose classes which might not be of interest to them substantially or morally.

b. Staying behind from essential domestic law education

Except for limited areas such as public international law, human rights law or regional law (i.e. EU law), law education is and will be a mostly domestic matter. A quasi-total of law students will end up working in different branches of the legal profession within the domestic system. Within this perspective, we find it essential that a law graduate possesses at least knowledge on the major legal framework – be it private or public law - of the domestic system. In partaking in an exchange program abroad for one to two semesters, and in cases when classes taken abroad are accredited by the national university, a student risks falling behind with regards core areas of domestic law. For example, we have observed that Turkish students who participate in the Erasmus program during the third or fourth year of education miss up on core law classes such as Civil and Criminal Procedure law as well as more specific courses on the Turkish law of obligations and Turkish commercial transactions law.

c. Comparative studies deficiency

One potential advantage of an exchange study program would be the enabling of comparative studies for law students. Through the exchange, the student would be able to observe and question the different legal responses given to similar questions under diverse legal systems. However, in order to achieve comparative studies on a subject, either the course should focus on these studies specifically or the student should have already ample knowledge on the subject to be compared. However, due to the two aforementioned points, we believe that it is far from possible to truly create a comparative study atmosphere at under-graduate level studies for exchange students. Tough exceptions may exist, in general neither are the host institutions able to provide comparative courses in specific areas of law due to the non existence of staff proficient in the law of the country of origin of the student.

II. Rethinking a Joint-Exchange approach: the Simultaneous Faculty and Student Exchange Experiment

The aforementioned shortfalls of standard student exchange models necessitates to take into consideration a more or less existing, but less frequently applied model for cooperative exchange programs between faculties of law. The joint-program model which we support, not as an alternative to other exchange models but as an extension, foresees the joint exchange of faculty and students of a given semester¹. The model which we would like to be discussed differs from joint degree-certificate programs which usually translate into summer programs or short/long term double degree programs. It is based on the idea of simultaneous faculty – student exchange, with quota provided by both institutions for national students, and can be summarized as a semester of national legal education abroad with supported comparative law education.

¹ The model is in fact inspired from “The Istanbul Study Abroad Program”, co-sponsored by the South Texas College of Law, Touro College Law Center and William Mitchell College of Law, conducted in cooperation with the University of Bahcesehir in Istanbul. However, the discussed model wishes to build upon “study abroad” summer programs in order to integrate the philosophy in to regular legal education.

Such an exchange program would involve national legal education of a given semester to be provided by the faculty of a university (sending university), at the facilities of the other partner university (host university), supplemented with comparative courses of interest provided by the host university. The program would be applied reciprocally so that both faculties would benefit equally from the opportunity. With the adoption of such a model, in extension to other existing models, exchange students would benefit from the cultural and personal development offered by studying abroad, while at the same-time not risking falling behind in domestic law education. Similarly, faculty participating in the program would also largely benefit from continuing to teach their areas of interest while extending their network opportunities and expanding their comparative knowledge. Supplementation of the program with optional courses provided by the host university and the possibility of a number of host university students to follow the sending universities curricula would enable the development of a mutual understanding with regards different legal approaches and between Faculties. For example, the possibility for a Turkish student to take American constitutional law courses simultaneously with Turkish constitutional law courses carries the possibility of engendering greater intellectual development in the specific area. Moreover, a determination of similar courses available to both institutions (such as international law, human rights law etc.) would enable a formulation of joint curricula which could be provided by members of the host university, minimizing administrative and budgetary issues.

Conclusion

We acknowledge that current student exchange models do not have the sole aim of education but also hope to foster cultural relations between students with the purpose of broadening their future understandings. However, especially with regards legal education, prioritizing the personnel cultural development of students should not always prevail if the student falls behind in academic and intellectual development. Within this regard, although maybe more costly in certain aspects, a joint exchange program model might offer most of the advantages which student – faculty exchange models provide, yet minimizes the academic shortfalls of the latter. Impossible to argue the legal, administrative and budgetary implications of such a program in such a short paper, we still find that a debate on the subject would be beneficial with regards international legal education and different cooperation models between Faculties of law in general.