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SILVIA FERRERI AND GIAN MARIA AJANI*

COMPARATIVE LAW AND MULTICULTURAL LEGAL CLASSES: CHALLENGE OR OPPORTUNITY?

SUMMARY: 1. Introduction. – 2. Classifying “families” of legal traditions. – 3. Are comparative law scholars trained to be unbiased toward other legal cultures? – 4. Resentment expressed by lawyers belonging to some legal systems that are being investigated by scholars from different legal perspectives. – 5. How to involve our students and “enhance” their first-hand knowledge of their country of origin? Are we equipped to distinguish facts from ideologies (or internalized or implicit biases) related to other legal traditions that are insufficiently supported by objective data? – 6. What help can we find in other experiences?

1. Italy does not have a long history of immigration: at least not in the last few centuries. Our country has been mainly a country of emigrants, often travelling toward the Latin American states (Argentina was a destination of election by Italians at the beginning of the 20th century).

One could contend that a degree of immigration occurred through the successive and recurring invasions by “Langobards” (comprehensive expression used to indicate tribes from central and eastern Europe), Normans, Spanish, and conquests by foreign armies (mainly Austrian, French, Spanish).

One could also add that, in medieval times, it was common for clerics to travel across Europe to receive an education. So much so, that in Bologna we can still visit colleges founded to host students from abroad, such as the *Real Collegio di Spagna* (created in 1364). In time, two different universities were established: a *universitas citramontanorum*, and a *universitas ultramontanorum*¹. At that time, classes in legal education

* My report has been improved by information and support given by the Rector of Turin University, prof. G. Ajani, a distinguished comparative law colleague to whom I address my gratitude.

¹ A. GAUDENZI, *Lo studio di Bologna nei primi due secoli della sua esistenza: Discorso inaugurale dell'anno accademico 1900-1901, corredato di note illustrative*, Annuario Regia Università di Bologna, 1901, p. 161, 162; G. ROSSI, “*Universitas scholarium*” e *Comune* (sec. XII-XIV), in *Studi e memorie per la storia della Università di Bologna*, 1, Bologna, 1956, p. 167.

were provided to a diverse audience: students – male students only – all spoke Latin and they studied the *Corpus Juris Justinianeus*. Classes were rather small in size as we can see visiting the *Museo civico medievale* and seeing for example the sculpture from the tomb of Johannes of Legnano, a professor of law at Bologna (died in 1383) showing law students listening to Johannes lecture in a classroom at the University of Bologna.

A different experience concerns the education of officers-in-training at military academies in Italy, students originally coming from Somalia, which was under Italian influence at the time. Somalia was a colony in the fascist period, (1936 to 1941), and later (from 1950 to 1960) under the U.N. Fiduciary Administration (*Amministrazione Fiduciaria*, AFIS, as a sort of protectorate)². Somalia was managed by an Italian administration in order to assist the country in moving towards complete independence. As a testimony to that experience, we may recall that Siad Barre, the ruler of Somalia (1969-1991), was educated in Italy (Florence) in the 1950s. The number of Somali trainees in Italian academies was however limited and confined to a special area of education.

More recently, in 1991 some 27.000 Albanians, suffering economic and political impoverishment, crossed the sea to immigrate to Italy. In 1997, a second wave of immigration from Albania followed, with the later arrival in 1999 of some 100.000 Kosovo citizens seeking political asylum in Italy for humanitarian reasons due to the war in the Balkans.

At the university level, many of the new immigrants started to attend courses in classrooms. They had some special needs, especially as far as written Italian was concerned, but generally, they did not disrupt the existing Italian teaching style. The students generally had a very good level of spoken Italian, due to the easy access to Italian TV programs broadcast in their home States.

Culturally, students of Albanian descent integrated themselves into Italian traditions, and teachers hardly noticed their presence in class: they tended to be rather silent and respectful, hardly requiring any consideration of their previous background. Occasionally, we had some requests to study issues of post-socialist economies and laws, such as the

² UN Assembly, Resolution 289 of 1949, A/RES/289, “Question of the disposal of the former Italian colonies”, <http://www.refworld.org/docid/3b00f08c18.html>. Some details on the history of contacts between Italy and Somalia can be found at: <http://www.il-cornodaffrica.it/st-meleacacorposomalia.pdf>

problem of restitution of land properties to the former owners in the period before the socialist government. The final dissertation to conclude the university studies when written by Albanians often reached a very good level of research and accuracy. Some students have had brilliant academic careers.

Also the immigrants from Bosnia-Herzegovina escaping the 1992-1995 war followed similar patterns³.

The situation has changed with the immigration (since the 1980s) of people from North Africa, with their cultural roots in Islamic traditions and a stronger attachment with their beliefs and values.

Our classes have become more diverse, both because of this experience and because of larger numbers of Erasmus and other exchange students, mainly coming from Central and Eastern European countries.

Occasionally, students also come from neighbouring France (for example Turin has several exchange programs with Lyon, Nice and Paris), or from the Netherlands (a country with a high student mobility rate). German students, and (rather more rarely) students from the UK also travel to enrol in our universities. Exchange students from Greece are more commonly found at the Medical School.

More recently, some Italian Universities have launched new graduate programs, fully taught in English. The phenomenon, which is consistent with a national-wide policy to make academic institutions more open to the world, has an impact on the formation of the students, as, quite obviously, Universities are receiving students from abroad who are interested in spending several years of education in Italy. The policy covers quite a large set of courses (Law and Global Studies, Medicine and Surgery, Business and Economics, to mention a few). These new waves of foreign student are mainly originated from Latin America, China, Russia and Eastern European countries.

A parallel new phenomenon is connected to an increased interest by students from Asian countries (particularly, but not only, the PR of China, Vietnam and Taiwan) in participating in exchange programmes related to the study of arts or music, or fashion.

How do we approach our teaching task considering this diversity in the students' population?

When introducing our classes we often face the challenge well ex-

³ http://bancadati.italialavoro.it/bdds/download?fileName=C_21_Strumento_5435_documento_itemName_0_documento.pdf&cuid=f089a689-6c95-4dcb-96de-a08238fc8c0c

pressed several years ago by a comparative law colleague, a specialist in German law, that is to say, to “rate as an expert in foreign law when he is at home and as an expert in German law when he is abroad”⁴. The condition may sometimes be rather uncomfortable, and possibly undeserved.

2. The issue of dividing the world legal systems into groups, even for mere didactic reasons⁵, has always been controversial.

Several proposals were put forward in the past, starting from G. Sauser Hall at the beginning of the XX century (1913), according to the partitions of ethnic groups (in parallel with the linguistic “families”)⁶, moving then to the later classifications by H. Lévy Ullmann⁷, R. David, Konrad Zweigert with Hein Kötz, and R. Sacco with A. Gambaro, finally meeting the rather radical objections by P. Legrand⁸ and by W. Twining (contesting the unprincipled and approximate method of separating legal cultures)⁹. Hein Kötz, co-author of one of the most influ-

⁴ B. GROSSFELD, *The Strength and Weakness of Comparative Law*, Oxford, 1990, p. 4.

⁵ R. DAVID, *Les grands systèmes de droit contemporain*, Paris, 1962. David openly declared that classifications were inescapably arbitrary, instrumental only as “didactic tools” rather than representing a “biological reality.” Also K. Zweigert and H. Kötz insist on the practical advantage of taxonomies, to simplify the initial stages of research in specific topics (*Introduzione al diritto comparato*, tr. it., Milano, 1992, vol. 1, lett. B – *I sistemi giuridici del mondo*, at p. 77). N. GAROUPA, M. PARGENDLER, *A Law and Economics Perspective on Legal Families*, in *EJLS, European Journal of Legal Studies*, 2014, 7(2), online: www.ejls.eu/16/195UK.htm; M. PARGENDLER, *The Rise and Decline of Legal Families*, in *American Journal of Comparative Law*, 60(4), 2012, available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1975273.

⁶ P. ARMINJON, B.B. NOLDE, M. WOLFF, *Traité de droit comparé*, Paris, 1952.

⁷ H. LEVY-ULLMANN, *Observations générales sur les communications relatives au droit privé dans les pays étrangers*, in *Les transformations du droit dans les principaux pays depuis cinquante ans (1869-1919) (Livre du cinquantenaire de la Société de Législation Comparée)*, Paris, LGDJ, 1923, p. 81 ff. (selecting “scientifically determined affinities”).

⁸ P. LEGRAND, *European Legal Systems Are Not Converging*, (1996); D. KENNEDY, *The Methods and Politics of Comparative Law*, in P. LEGRAND, R. MUNDARY (edited by), *Comparative Legal Studies: Traditions and Transitions*, CUP 2003, pp. 345-433: “[l]egal families’ and ‘functions’ mark poles of the functional-technical spectrum for comparative law in the nineteen fifties”.

⁹ W. TWINING, *Mapping Law*, in W. TWINING (edited by), *Globalisation and Legal Theory*, London, 2000, p. 163-168. J. GORDLEY has also described the distinction between common and civil law as “obsolete”: *Common Law und Civil Law: eine über-*

ential taxonomies of legal families, seems to have raised some doubts, recently questioning whether the time is ripe to abandon the legal family classifications¹⁰. A significant part of the comparative law literature has advanced the case that legal family distinctions may be outmoded.¹¹ This literature “shows that legal families are problematic, variant and subject to many different classifications in comparative law”¹².

The general objection to any proposal of grouping legal systems is that all systems are to a certain extent “mixed legal systems”, as everywhere foreign models have been imported, and no system can really be considered as purely “civil” or “common” law, or “Islamic” or “Hindu”, or “Confucian”, and so on. Scholars have argued for the expansion of the class of the well-recognized “mixed systems” well beyond Scotland, South Africa, Canada and Sri Lanka reaching the number of fifteen such systems¹³. The nature of “mixed system” may be connected not only to a combination of civil and common laws, but also of secular with “religious law and (until quite recently, Ottoman law) as in Israel; some of civil law, religious law, socialist law and tribal law as in Algeria; others, such as Hong Kong, that are combinations of traditional Chinese law, common law and socialist Chinese law, which itself embodies elements of the civilian tradition; some of common law, religious law and cus-

holte Unterscheidung, in *Zeitschrift für europäisches Privatrecht*, 3, 2003, pp. 498-518. A skeptical tone emerges in H. P. GLENN, *Are Legal Traditions Incommensurable?*, in *American Journal of Comparative Law*, 49 (1), 2001, p. 133-145.

¹⁰ H. KÖTZ, *Abschied von der Rechtskreislehre?*, in *Zeitschrift für europäisches Privatrecht*, 3, 2003, p. 493-505.

¹¹ H. SPAMANN, *Contemporary Legal Transplants: Legal Families and the Diffusion of (Corporate) Law*, in *Brigham Young University Law Review*, 2009, 6, pp. 1813-1877. At p. 1815, describing the emerging persuasion among comparatists in the commercial field that there are “few if any relevant differences between common and civil law today”.

¹² N. GAROUPA, M. PARGENDLER, o.c.; P. RICHARD, *Le jeu de la différence: réflexions sur l'épistémologie du Droit comparé*, PUL, Laval, 2007.

¹³ V. PALMER, *Mixed Jurisdictions Worldwide: The Third Legal Family*, Cambridge, 2001. “the author [...] covers seven of them (Louisiana, Israel, Scotland, South Africa, The Philippines, Puerto Rico and Quebec) and leaves out Botswana, Lesotho, Swaziland, Sri Lanka, Mauritius, the Seychelles, Saint Lucia and Zimbabwe. The number could be sixteen as Namibia is also mentioned in passing”; E. ÖRÜCÜ, *View of Legal Families and of Mixed Systems*, in E. ÖRÜCÜ, E. NELKEN, D. NELKEN (edited by), *Comparative Law: A Handbook*, Oxford, 2007, pp. 169-187; ID., *What is a Mixed Legal System: Exclusion or Expansion?*, in *Electronic Journal of Comparative Law*, 12(1), 2008, <http://www.ejcl.org/121/art121-15.pdf>.

tomary law such as India and Pakistan and so on”¹⁴. Another interesting example is the system in New Zealand where legislation is enacted in English, but Maori is also identified as an official language: this leaves room to the encroachment of cultural heritage notions into legislation¹⁵.

The widening of the class of *mixed systems*, however, risks hiding or obliteration of distinctive features that help students to identify the characteristics of various traditions and determine the extent of borrowings or transplantations between systems that have occurred over time.

3. A long and extensive reflection on the role of the comparative method, on the aims of comparing legal formants across State boundaries, has shown that a critical attitude toward other cultures is superfluous¹⁶. Not every investigation is meant to assess the relative advantages and disadvantages of various solutions to social needs that are managed by means of legal rules.

As astronomers started observing the sky without planning to send human beings to the moon, similarly lawyers started to observe other people’s legal institutions to understand how they worked, not necessarily to transplant or to imitate schemes designed by different social groups¹⁷. Therefore observation may be separated from judgment on quality (or inefficiency) of foreign rules.

As declared by Alan Watson “the prime virtue of comparative law

¹⁴ E. ÖRÜCÜ, *o.c.*, at p. 2. “In addition, there would be ongoing mixtures, systems in transition, such as the legal systems looking for an identity, having left the socialist sphere... Poland, for instance, has a mixture of socialist law, Roman law, Polish law – itself a mix of German, French, Russian and Hungarian laws – traditional law and EU law. As some extreme examples one could also consider legally pluralist legal systems”.

¹⁵ The *Maori Language Act 1987* does not require *all* legislation to be published in Maori. However, “since this Act makes Maori an official language, the use of the language in statutes has become increasingly common”. As a result, legislative texts are written in English, but some texts are also in Maori or some Maori words are inserted into a specific Act. See A. GAMBARO, *Interpretation of Multilingual Legislative Texts*, General Report to the XVII Congress of the IACL, Utrecht, 2006, *Electronic Journal of Comparative Law*, vol. 11(3), 2007, <http://www.ejcl.org>.

¹⁶ R. SACCO, *Les buts et les méthodes de la comparaison du droit*, in *Rapports nationaux italiens au IX Congrès international de droit comparé*, [Teheran, 1974], Milan, 1974, p. 113 ff.; *Id.*, *Legal Formants: A Dynamic Approach to Comparative Law*, in *Am J Comp Law*, 39, 1991, p. 395 ff.

¹⁷ *Id.*, *Comparazione giuridica e conoscenza del dato giuridico positivo*, in R. SACCO (edited by), *L'apporto della comparazione alla scienza giuridica*, Milano, 1980, p. 243 ff.

is the understanding it can give of the nature of law and especially of legal development”¹⁸.

An often quoted passage by H. Yntema (1956) reminds us that scientific research requires the expression of general theories and their validation. Considering the difficulties and costs of experimentation (in the social field), comparing existing legal rules becomes a fundamental tool¹⁹. Eric Stein, however, has underlined that “properly conducted training in the comparative method not only advances the basic ‘lawyer skills’ of writing and reasoning, but also leads to controlled policy evaluation and value analysis when solutions in different systems are compared at various levels of analysis in the Kahn-Freund style. There is thus no incompatibility between ‘effective professional training’ and scientific legal study”²⁰.

Legal historians observing the development of the comparative approach to law²¹ remind us that sir Henry Maine, one of the first scholars to work in this field, with the publication of *Ancient law* in 1861 was following the same mental process as Charles Darwin who published in 1859 his book: *The origin of species by means of natural selection*.

The index itself of Maine’s book gradually introduces us to “Ancient Codes” (ch.1), and then to “The Modern History of the Law of Nature”, juxtaposing “Primitive Society and Ancient Law” to “Ancient and Modern Ideas Respecting Wills” (ch.7). This design sketches an evolution from “primitive” societies to more advanced and progressive ways of organizing human co-existence.

If we – as researchers – have moved away from this initial assumption of a necessary progression from *primitive* to *sophisticated* rules of law, if we nowadays accept that ancient institutions may re-surface in our complex societies to rule new phenomena, if we share the thesis (provocatively advanced by A. Watson) that transplants occur even be-

¹⁸ A. WATSON, *Legal Transplants. An Approach to Comparative Law*, 1974, p. 16.

¹⁹ H. YNTEMA, *Comparative Legal Research – Some Remarks on Looking out of the Cave*, *Mich. Rev.*, 54, 1956, p. 899 ff.

²⁰ E. STEIN, *Uses, Misuses and Nonuses of Comparative Law*, in *Nw. U. L. Rev.* 72, 1977, pp. 198-216, at p. 216.

²¹ N. BROWN, *A Century of Comparative Law in England: 1869-1969*, in *American Journal of Comparative Law*, 19.2, 1971, pp. 232-252. Cf. for a French perspective: E. AGOSTINI, *Droit Comparé*, Paris, 1988; C. VIGOUR, *La comparaison dans les sciences sociales*, Paris, 2005.

tween societies very differentiated in terms of economic development, social needs, religious persuasions²², can we assume that we are free and unconditioned by our culture rooted in the humanistic studies of the 17th century?

As observed by scholars studying the preparation of teachers, “the academic tradition is usually ... based on the assumption that the knowledge of the scientific structures, content and methodologies of particular academic disciplines ... are sufficient to enable teachers to perform the tasks of teaching and education competently”²³. However putting “greater emphasis on the acquisition of academic knowledge in a particular discipline rather than in learning pedagogical skills and teaching practices” may adversely affect the results in classrooms where the diversity of the students’ body is an important feature.

Many comparative law scholars have a background in classical studies, such as first degrees in languages, history, philosophy, and economics. Not so often do we share a preparation in anthropology, or psychology. The reason why I mention specifically anthropology is because, for a long time, researchers in this field have tried to understand how the groups they were studying organized their lives, without any motivation to imitate them, or to establish a scale assessing the relative value of their customs. Claude Lévi-Strauss in 1955 in *Tristes tropiques* followed an approach of detached, neutral recording of customs, languages, other social exchanges of the Brazilian rain forest. The patterns of behaviour of different people may offer material for reflection, without necessarily implying a judgment of value.

How far do we share this approach?

4. Curiously, the first episode coming to my mind does not concern so much Islamic or Hindu lawyers being hurt by the (sometimes condescending) approach of western lawyers.

My observation relates rather to the piqued reaction caused in the

²² A. WATSON, *o.c.*; ID., *Society and Legal Change*, Edinburgh, 1977; *Comparative Law and Legal Change*, [1978] 38 *Camb. L. J.*, p. 313 ss.; *Legal Tradition as a Limitation on Law Reform*, in *Am. J. Comp. L.* 26 (Suppl. 1978), pp. 14-15.

²³ A. BUCHBERGER et al., *Greenpaper on Teacher Education in Europe, Diversity as the Salient Feature of Teacher Education in Europe?*, Umeå University, Sweden, Fakultetsnämnden för lärarutbildning, 2000, p. 15, available at: <http://www.cep.edu.rs/sites/default/files/greenpaper.pdf>

civil law area by the World Bank “Doing business” Report, published in 2004. French jurists exposed the methodological limits inherent to these reports, which rated France as behind other legal systems in aiding or facilitating business²⁴. Many faults have been found in the method used to assess the presumed “superiority” of the common law approach to negotiations and conflicts. A backlash of strong critical commentary of the reports followed. More generally, it is quite interesting to note that the “classical”, neutral approach to comparative legal studies, which has marked the methodology of the discipline throughout many decades, has somehow left the field to a different approach, rooted in the “legal origins” literature²⁵. In fact, the World Bank *Doing Business Report* (2004) was based on the assumption that “common law systems perform better than civil law systems”. Consequently, if common law rules are transplanted into post-communist legal systems, as well as in developing countries, they will foster economic development, following a “one size fits all” model. This approach is heavily influenced by American legal theories on legal reform. These theories consider law as a means of “social engineering”, in sharp contrast to the European continental legal tradition.

Similarly to the French reaction, in the past, distinguished scholars belonging to rich cultures such as the Indian intellectual tradition have reacted with annoyance to the naïve categorization of India as a country guided by mysticism and religion, underestimating the great tradition of mathematics and rational reasoning that has informed Indian culture for centuries²⁶. Amartya Sen has noted the long tradition of argument and public debate, of intellectual pluralism that informs India’s history. In his analysis he does not spare Western categorizations that have oversimplified and distorted the Indian reality (like James Mill’s *History*

²⁴ A.J. KERHUEL, B. FAUVARQUE-COSSON, *Is Law an Economic Contest? French Reactions to the Doing Business World Bank Reports and Economic Analysis of the Law*, available at: <http://scholarship.law.georgetown.edu/facpub/372/>; also: Société de Législation Comparée, *Les droits de tradition civiliste en question. À propos des rapports Doing Business*, Paris, 2006.

²⁵ E. GLAESER, A. SHLEIFER, *Legal Origins*, <https://dash.harvard.edu/handle/1/29408124>

²⁶ A. SEN, *The Argumentative Indian: Writings on Indian History, Culture and Identity*, Penguin UK, London, 2006. In the first pages of his book, the author recalls the annoying situation of asking for books on India in American bookstores and being immediately addressed to the section on “religion”, as if the whole reality of India coincided with the spiritual dimension.

of *British India*). Sen has repeatedly refuted the superficial Western description of India as a ‘mainly Hindu country’ and he propounds a view of Hinduism as an inclusive philosophy rather than an exclusionist, divisive religion. This view of Hinduism characterizes it as inclusive and willing to accommodate dissenting views and ‘even profound scepticism’²⁷.

Esin Öricü has also reacted to the oversimplification of observations concerning the development of family law in Turkey²⁸ in a context much more complex and stratified than is appreciated by foreign observers.

An extensive literature exists relating to the Islamic tradition on the topic of the “incommensurability” of religious sources with the trivial nature of positive rules dictated by parliaments and governments²⁹.

Comparative lawyers have to address delicate situations when introducing Islamic sources of law: even when we try to explain that the civil law tradition owes many notions to canon law that was religious in its roots. Awkward moments may occur when we draw parallels with Jewish law (e.g. concerning repudiation, or other family law institutions).

²⁷ “This is a ‘capacious view of a broad and generous Hinduism, which contrasts sharply with the narrow and bellicose versions that are currently on offer, led particularly by parts of the Hindutva movement’” (as observed by Soumya Bhattacharya for the *Observer*, 3 July, 2005).

²⁸ E. ÖRÜCÜ, *An Exercise on the Internal Logic of Legal Systems*, in *Legal studies*, 7, 2006, p. 310 ff., <http://onlinelibrary.wiley.com/wo11/doi/10.1111/j.1748-121X.1987.tb00369.x/full>. “An interesting scale of values came to light in a survey ... juxtaposing some selected systems to the General Principles on divorce and maintenance drawn up by the CEFL. The scale ranged from a Lutheran population with an ex-socialist secular legal system (Estonia), a number of secular legal systems with Evangelical Lutheran populations (the Nordic countries), a predominantly Roman Catholic population with a secular legal system (France), Protestant Anglican population with a secular legal system (England and Wales), a Roman Catholic population without a secular legal system (Malta), to a Muslim population with a secular legal system (Turkey). The impact of the values these beliefs embody can be traced in their present family laws – secular or not – and regardless of their membership of the civil law or common law families. However, all these countries are on the path of modernisation but, within their own circumstances, definitely at different speeds and not necessarily in the same direction”. ID., *Diverse cultures and official laws: multiculturalism and Eurocepticism?*, in *Utrecht Law Review*, 6., 2010, p. 75 ss. (esp. p. 78, family law).

²⁹ S.H. AMIN, *Classification of Legal Systems in the Muslim Countries, Islamic and Comparative Law Quarterly, Journal of the Department of the Indian Institute of Islamic Studies*, vol. 7, New Delhi, 1987, p. 93 ff.

The same observation could be repeated for many countries: intellectuals belonging to a certain culture often find the analysis of their traditions, effected by foreigners, as oversimplified, missing the in-depth understanding of the roots and motivations of social phenomena.

If scholars from a legal tradition or culture view the analysis by outsiders to that tradition inadequate, how are students, sitting in a foreign classroom, affected by overly simplified our presentations of their own legal systems? Needless to say, whenever a “neutral” approach to comparative law (deeply rooted in the recognition of local cultures and languages as important factors of identification of “what the law is” in a given national legal system), yields to an evaluative analysis, one should expect disagreements. These may arise within groups of students who are invited by the teacher to consider those evaluations (the tension may materialize both in law schools and business schools, as well as in political sciences departments).

Moreover, some inadvertent “*faux pas*” may occur when teachers consider together legal systems of the Far East, considering China, Japan and Korea and connecting to each other. Students from those areas may perceive this classification as arbitrary and overlooking very distinctive aspects that they consider crucial. Generalizations can be offensive for the listener who has more details and information than the lecturer herself (who, in our classes, often can speak neither Chinese nor Japanese).

A couple of small but telling episodes of the past may deserve to be mentioned, to highlight how occasional remarks may be perceived by the audience as severe disapproval.

The first case comes out of our teaching experience in a large class of 3rd year law school students, a group largely composed of exchange students coming from Europe, Asia and Northern America.

When introducing the role played by International Financial Institutions, like the IMF and the World Bank, in supporting the “*Rule of Law*” notion as a powerful vehicle to promote legal reforms, the teacher asked students to provide their own definition of the Rule of Law. This exercise was presented as preliminary to analysing the impact of the *Rule of Law* on national legal reforms. As a result, students with a common law background quite unanimously provided a definition which stressed the supremacy of the *Rule of Law* as “a concept designed by and within the common law tradition”, not compatible *per se* with the European continental notion of “*Rechtstaat/Etat de Droit*” (including in the “continental experience” the Russian and Chinese legal systems).

In less than an hour, a diversified group of 50 students had reduced the World Bank policy, based on the identification of the *Rule of Law* as a “global standard” to nothing but a mere illusion (starting from an expectation of its capacity to make up worldwide legal diversity and to drive harmonization of legal systems in the name of globalization). Particularly interesting, in this context, is the role played by students educated in the PR of China who underlined that, in their perspective, the inclusion of the *Rule of Law* notion within the text of the PRC Constitution (art. 5, as amended in 1999) has to be interpreted according to the “Chinese characteristics” and the leading role of the Communist Party.

The second story refers back to history and to a 1752 case reported in *The Newgate Calendar*³⁰, a classic collection of English criminal cases. In relation to this episode, the reporter of the court decision emphasises the cruelty of the defendant, a Scottish captain, William Henry Cranstoun. He seduced “a lady of a good family” (the daughter of “an eminent attorney”) and persuaded her to kill her father in England³¹.

The “original contriver of this horrid murder” then escaped to “Furnes in Flanders” where he finally died. The “editor” of the case commented on Captain Cranstoun’s deathbed repentance and stated that:

“he [...] received absolution [...], declaring himself a convert to the Romish faith. [...] it is *impossible to think highly of a religion that offers immediate pardon and absolution* to a criminal, of whatever magnitude, *on the single declaration of his becoming a convert* to that religion”. [emphasis added].

The comment in reference to the 1752 trial in this legal report seems to bring out the distrust of adherents to the Protestant religion toward the Roman Catholic doctrine of repentance. We observe here a conflict within the same *Christian* religion.

One can imagine what types of Western prejudice might characterize an analysis of Islam, or other religious creed, especially in the pasts. One can easily figure how difficult it is to carry a fluent dialogue be-

³⁰ *The Folio Society*, edited by Sir Norman Birkett, London, 1951, reprinting the 18th century *The Malefactor’s Register or the New Newgate and Tyburn Calendar* (1780). The case is useful to help students focus on past experiences.

³¹ *The Newgate Calendar*, London, 1951, “The Trial of Miss Mary Blandy”, p. 135 ff., at p. 145.

tween secular systems with legal systems based on religion, such as Jewish or Hindu law. How far have we moved from mutual suspicion?

Of course, attitudes are changing, even in one of the most proud and isolationist countries, such as the United Kingdom³², progress towards mutual understanding will hopefully to continue even after *Brexit*. The question continues as to how law professors may improve such understanding in classes with students from different legal and cultural systems?

Interesting experiments are being carried out in some universities to “develop pedagogical strategies to provide students with the skills that will give them the mobility and flexibility to operate efficiently in different cultural contexts. ‘Reading Across Cultures’ is a module taught in Australia at Monash University that was specifically designed to enhance students’ levels of Cultural Literacy”.³³ Several initiatives framed in similar terms have been started in business schools across Europe under the realization that doing business in a global market does require openness to other cultures and approaches³⁴.

Scientific studies have evidenced “the teacher as the pivotal figure for a successful multicultural classroom ... Groups with diverse members can either be more productive when their diversity is leveraged or utterly fail when this aspect is ignored ... In the multicultural classroom, the teacher needs to be able to identify cultural differences, address incidents in a culturally appropriate and sensitive manner, separate personality and cultural issues and facilitate the achievement of the defined learning outcome for all students in the class through appropriate task and assessment design”³⁵.

³² Lord T. BINGHAM, *There is a World Elsewhere: The Changing Perspectives of English Law*, in *ICLQ*, 41, 1992, p. 517.

³³ G. GARCÍA OCHOA, *Reading across cultures, ‘Self localization’ in the higher education curriculum*, in *The Journal of Internationalization and Localization*, 3(2), 2016, p. 165 ss. A collaboration with Warwick university is ongoing (referent: Sarah McDonald, Institute for Advanced Teaching and Learning at Warwick).

³⁴ Teaching issues focusing on the different cultural approaches is valued for instance in Germany as shown by the university of Köln (Cologne) with its International Management and Intercultural Communication (GlobalMBA), directed by Elke Schuch, https://www.th-koeln.de/en/academics/international-management-and-intercultural-communication-masters-program_7182.php (see also the network CLE, *Cultural Literacy in Europe*: <http://cleurope.eu/>). M. McKIERNAN, V. LEAHY, B. BRERETON, *Teaching Intercultural Competence*, Dundalk Institute of Technology (Ireland), Business studies, in *Italian Journal of Sociology of Education*, 5(2), 2013, p. 219 ss.

³⁵ G. ABERMANN, I. GEHRKE, *The Multicultural Classroom – A Guaranteed Inter-*

An important concern is the need “to make local students see the benefit of cultural learning for their own professional and personal development”³⁶. Otherwise, local students will often see attempts at integrating foreign students as a waste of time or even a «threat to achieving learning goals, especially if those goals are not clearly linked to the interactions [with foreign students] required to achieve them»³⁷.

This description is not completely reassuring. Do we all qualify to this high standard?

In the legal field, the reflection on the impact of the lecturer’s background and her/his silent assumptions is still limited.

As an example of thought-provoking experiences we can consider a workshop lead at the City University of New York by a number of law faculty members of different racial, ethnic, gender and religious orientation³⁸.

It is not easy to find in depth analysis, beyond the Anglo-American sphere. Most contributions available refer to the teaching of Legal English to foreign students and in that context we meet interesting diagnoses of difficulties, but also strategies to overcome some of these. For example M. Woo, teaching comparative law at North Eastern University law school (Boston), considers differences in teaching styles that may be quite relevant as some cultures require a clear hierarchical relation between teacher and students, or prevent students’ direct intervention in class as this is considered disrespectful³⁹. In some context even

cultural Learning Space?, 115: *Successful Internationalization of Higher Education, Forschungsforum der österreichischen Fachhochschulen*, 2, 16, p. 2, available at the Newcastle University (Australia) website: http://www.newcastle.edu.au/__data/.../The-Multicultural-Classroom.pdf.

³⁶ C. EDMOND, *Increasing International and Domestic Student Interaction*, in J. RYAN (edited by), *Cross Cultural Teaching and Learning for Home and International Students*, Abingdon, 2013.

³⁷ B. LEASK, J. CARROLL, & OTHERS, *Moving beyond ‘wishing and hoping’: internationalisation and student experiences of inclusion and engagement*, in *Journal Higher Education Research & Development*, 30(5), 2011, p. 650, (available at: <http://www.tandfonline.com/doi/abs/10.1080/07294360.2011.598454>).

³⁸ P. EDWARDS, R. GABRIEL, D. LEE, D. NADVORNEY, *Teaching Law in a Multicultural, Multilingual Context*, in *Florida International University College of Law Rev.*, vol. 4, n. 1, 2008, p. 145 ff.

³⁹ M.Y.K. WOO, *Reflections on International Legal Education and Exchanges*, 2001, North Eastern Un. School of Law, 113, available at: http://lsr.nellco.org/nusl_faculty/113, p. 452; C. HOFFMAN, *Using Discourse Analysis Methodology to Teach «Legal English»*,

direct eye contact is considered impolite⁴⁰: this prevents active participation by some Asian students.

5. Students have gradually become impatient with classes taught *ex cathedra*, number of student requests for hands-on activities have been put forward to our universities. We have responded by instituting “legal clinics” (student experience in real world cases under the supervision of licensed attorneys) in various fields, with moot court exercises, participation in international competitions (such as the Vis competition on the CISG, in Vienna), participating in the “Model UN program”⁴¹ and with the founding of electronic newspapers for students, and so on.

a) An excellent practice consists in involving students by having them report on some issue that is part of the general syllabus submitted for the course. A rewarding and successful experiment consists in assigning a topic to a two to three people team who prepare a PowerPoint presentation (or more sophisticated communication tools) and have them report their findings to the class.

Students’ audiences seem to take a much greater interest in what is reported by classmates, especially if the reporters are able to add some first-hand information, either because they visited a country for a substantial period of time or if they originally come from that country. In both cases, personal observations grab the attention of listeners with greater impact than theoretical reflections offered by a lecturer.

The obvious problem is of course to offer a solid framework in which students’ reports may fit as episodes to highlight points in class schedule. However, an issue requiring some consideration is also how can lawyers, trained in Western culture, address very controversial issues, possibly connected with religious beliefs, without offending the sensi-

Georgetown University Law Center, in *Int’l J.L. Language & Discourse*, 1, 2011, pp. 1-19, available at: <http://scholarship.law.georgetown.edu/facpub/1332>; T. V. EMELYANOVA, *Peculiarities of teaching legal English in multinational groups*, in *237 Procedia – Social and Behavioral Sciences*, 2017, pp. 1494-1499.

⁴⁰ Y. ZHAO, *Cultural Conflicts in an Intercultural Classroom Discourse and Interpretations from a Cultural Perspective*, in *Intercultural Communication Studies*, XVI: 1, 2007, p. 129.

⁴¹ The program simulates UN debates. A team of students meets once a week to discuss predetermined issues, with each student representing a different country. The debates are held in accordance with the UN rules of debate: <http://www.nmun.org/>.

tivity of the native students and yet introduce reliable scholarly observations.

From personal experience, we can report on some awkward moment with Chinese students who were trying in their presentation to represent the difficulties of guaranteeing human rights respect in a country with a limited tradition of free speech. Occasional difficulties arise in multicultural classes on comparative law (e.g. at the Centre for Transnational Legal studies, in London) where both Palestinians and Israeli law students are attending. Bridging gaps in representing “families of legal systems” is not an easy task⁴².

The historical roots of legal systems are usually less controversial than the modern consequences of the past. As most of us are not trained as political scientists, discussions may sometimes become unruly, or superficial.

b) Interesting experiments concern the translation of legal texts.

A rather instructive exercise concerns the subtitling of “legal drama” episodes. *Legal drama* is the media fiction *genre* dealing with the professions of lawyers, judges, police and law enforcement. One can replicate with students a fairly widespread practice of “fan-made translations” for TV series or celebrity programmes, comparing the original script with alternative possibilities to render the legal context⁴³. The issue of the translation of Culture-Specific References (CSR) is an interesting tool to awake the interest of students, challenged to provide the preferred choice between a transposition more adherent to the original (even leaving some crucial words untranslated) and a ‘domesticating’ approach, where a local equivalent is sought for foreign institutions lacking an exact equivalent⁴⁴.

⁴² H. RADSTAKE, *Teaching in Diversity. Teachers and Pupils about Tense Situations in Ethnically Heterogeneous Classes*, PhD. Dissertation, Amsterdam University, Antwerpen, 2009; Center for Teaching Excellence, *Dealing with Conflicts, Teaching a Diverse Student Body: Practical Strategies for Enhancing our Students’ Learning*, University of Virginia, 2017, http://cte.virginia.edu/resources/teaching_a_diverse_student_body_practical_strategies_for_enhancing_our_students_learning/dealing_with_conflicts/

⁴³ In Italy we may refer to *FanSubs*, available at the website *OpenSubtitles.org*. It is run by the community *ItalianSubs*. *FanSubs* arose as fan-made subtitles for Japanese cartoons and “animé manga” and derive from the teamwork of semi-professional translators, mostly fans of the subtitled series. Generally, they are uploaded on the internet immediately after the appearance of each episode (therefore in advance of the official DVD translations).

⁴⁴ A. LAUDISIO, *The Adaptation of Legal Culture-Specific References in Cross-cultural Rewriting: The Case of Legal Drama*, in *ESP Across Cultures*, 2017; J. PEDERSEN,

Examples range from the common law distinction of “crimes” and “misdemeanours”, to the prohibition of double jeopardy (= *ne bis in idem*), the meaning of an “affidavit”, or of the “attorney-client privilege”⁴⁵, the qualification of judicial bodies (e.g. the “supreme court” may in some States of the U.S.A. not be the court of last resort, but actually a trial court, as in New York state⁴⁶). As a testimony of the misunderstanding that may occur, M. Woo recalls the visit of twenty Chinese judges in Massachusetts and their insisting question on why, in the State system, the lowest level court was called a “superior court”⁴⁷.

In the ordinary curriculum of university courses, where teaching focuses on municipal (or “domestic”) law, no time is really dedicated to problems of “transferring legal information from one language and culture into another language and culture” by “*intersemiotic*” translation⁴⁸. That is to say the process by which the legal information in a source text is interpreted within the source language and then translated into the target language where the translated information is “conformed to the purpose of the translation and the *genre* of the target text”.

A gap in education is rather obvious. There is a real difficulty for non-lawyers to convey a legal meaning: “a non-lawyer translator without legal training is stuck with the words and phrases of the source text tending to literally transfer to the target language what is written in the source text (a “word-for-word approach”)” and is unable to assess whether or not his or her final product makes sense as far as law is concerned”⁴⁹.

Cultural Interchangeability: The Effects of Substituting Cultural References in Subtitling, in *Perspectives: Studies in Translatology*, 2007, 15 (1), pp. 30-48; I. RANZATO, *The Translation of Cultural References in the Italian Dubbing of Television Series* (PhD Thesis), London: Imperial College, 2013.

⁴⁵ R. NAZZINI, *Legal English e giudici dell'Unione Europea*, in S. FERRERI (a cura di), *Falsi amici e trappole linguistiche*, Torino, 2010, p. 73 ff.

⁴⁶ An amusing exercise is to compare the Italian version of S. TUROW, *One L, The Turbulent True Story of a First Year at Harvard Law School* [1977] translated in Italian as *Harvard, facoltà di legge*, Milano, 1995. The word “consideration” for instance is translated as “compenso”, a rather inadequate expression to convey the complexity of the common law contractual notion.

⁴⁷ M. WOO, *o.c.*, p. 453.

⁴⁸ M. CHROMÀ, *Cross-cultural Traps in Legal Translation*, in C. CANDLIN, M. GOTTI (edited by), *Intercultural Aspects of Specialized Communication, Linguistic Insights*, vol. 14, Bern, 2004, p. 198.

⁴⁹ *Ibidem*.

Conducting this kind of exercise, alerts students to the interesting implications of communicating in a different language and different cultural context, and also profiles the role of lawyer-linguists, whose training is organized only in a few institutions.

Here too, the teacher may be confronted with the problem of dealing with legal systems lacking a corresponding institution and the challenge is not to hint at any superiority of the richer vocabulary in one of the compared legal languages.

In general, a higher level of awareness about multicultural classes seems to exist in the linguistic field where – as mentioned above – the teaching of legal English exposes some of the problems to be dealt with. Therefore, we find interesting suggestions on the use of “discourse analysis” as a tool to make students more confident in expressing opinions, offer comments, and participate in the discussion⁵⁰. The use of English as “lingua franca” also involves reflections on intercultural communication, for example on the relative status of verbal and written communication in different cultural traditions⁵¹.

c) Legal “clinics”, that is to say practical involvement of students in following real cases, having access to the files and documents of negotiations or litigation, is also considered very useful. On the challenges (met in managing the practical involvement of students from various backgrounds) some scholars have produced a variety of reflections on what they have learnt “on the field”⁵².

6. In April 2017 a study was published on the website of the European Commission on *Education and Training* which was “drawn up to

⁵⁰ C. HOFFMAN, *Using Discourse Analysis Methodology to Teach “Legal English”*, in *International Journal of Law, Language and Discourse*, 1(2), 2011, p. 1 ff.

⁵¹ C. GODDARD, *English as an international Language of Legal Communication: Inter-Cultural Aspects*, Riga Graduate School of law, Working papers, n. 20, 2004, www.rgsl.edu.lv/images/stories/publications/RWP20gud.pdf.

⁵² D. BURAND, K. YELPAALA, P. LINZER, *Teaching Transactional Skills and Law in an International Context*, *Tenn. J. Bus. L.*, 12(3), 2011, pp. 275-298, [In the setting of Michigan Law School’s International Transactions Clinic; D. BURAND, *Early Lessons In Launching An International Transactions Clinic*, p. 282]. A. SEDILLO LÓPEZ, *Making and Breaking Habits: Teaching (and Learning) Cultural Context, Self-Awareness, and Intercultural Communication Through Case Supervision in a Client-Service Legal Clinic*, *Wash. U. Journal of Law and Policy*, 28 2008, p. 37 (referring experience in New Mexico, University of New Mexico Clinical Law Program).

shed light on the *challenges and opportunities of the increasing diversity of European classrooms*, as well as to identify practical measures to support teachers in dealing with the challenges they are faced with⁵³.

The introduction starts with the following sentence:

“Even though the diversity found in European societies is not a new phenomenon, its nature is rapidly changing. Europe is becoming increasingly diverse due to intra-European mobility, international migration and globalization. These societal changes affect the educational landscape and organization, and create both new opportunities and challenges for schools and other educational institutions”.

The coincidence with the topic submitted to our team illuminates the urgency of the issue as perceived in the field of education. The Council of Europe (Strasbourg) had inaugurated the trend in 2008 producing a survey report on “policies and practices for teaching sociocultural diversity”⁵⁴, while the UNESCO’s Center for Intercultural Dialogue has investigated “Intercultural competences. Conceptual and Operational Framework” in a study published in 2013⁵⁵.

The study, commissioned by the EU, addresses the formation of teachers in school education (including high school or secondary education), obviously a priority in contexts where a high degree of immigration is occurring.

According to data gathered by the research team working for the EU Commission, several universities have organized Master’s level programmes for teachers in upper secondary schools that focus on “diversity teaching, intercultural education, or multilingualism”⁵⁶.

⁵³ European Commission, Directorate General for Education, Youth, sport and Culture, Study – Preparing teachers for diversity: the role of initial teacher education (Public Policy and Management Institute, Vilnius) at: https://ec.europa.eu/education/news/20170510-diversity-teaching-report_en

⁵⁴ A.L. ARNESEN, C. BÎRZÉA, B DUMONT, M A ESSOMBA, E FURCH, A VALLIANATOS, F. FERRER *et al.*, *Policies and practices*, quoted, Strasbourg, 2008, available at: www.coe.int/t/dg4/education/diversity/.../Volume_1_En.pdf. See also: Council of Europe, *Living together as equals in culturally different democratic societies*, 2016 (<https://rm.coe.int/16806ccc07>) (p. 10: “All cultures are internally heterogeneous, contested, dynamic and constantly evolving, and all people inhabit multiple cultures that interact in complex ways”).

⁵⁵ See: unesdoc.unesco.org/images/0021/002197/219768e.pdf, available online: https://is-suu.com/unesconow/docs/intercultural_competences/41

⁵⁶ *Study*, p. 60.

For example in Latvia a Master's degree programme on *Educational Treatment of Diversity* was created in 2007, including classes on *Neurological and psycho-pedagogical bases of educational treatment of diversity, International and comparative frame of educational treatment of diversity*⁵⁷.

In Genoa, Italy, a university laboratory in *Intercultural Education* has been established in a course on *Interculturality and Playing*. It is meant to make teachers “aware of the main issues on integrating children with ethnic background in the class room, preparing teachers in planning an intercultural activity and improving capacity of learning to learn to further intercultural preparation and sensitivity”.

A study by T. Burns on “Promoting social education and classroom practice for diversity” was published in 2009, following a meeting organized in the same city under the auspices of the OECD (Org. for econ. cooperation and development) Centre for Educational Research-EDUCERI⁵⁸.

The Ministry of Education in Italy in 2015 produced guidelines to train newly appointed teachers in schools requiring them to attend a 50 hours course with 8 priority topics to develop intercultural skills (Ministry of Education, Universities and Research of Italy, 2015)⁵⁹. The *punctum dolens* (the sensitive issue) is – as usual – financing these initiatives. The benefits of these programmes may be adversely affected if financing is occasional, or discontinuous.

An interesting experience, that could be followed at the university level, has been organized in the Czech Republic where the special Section for Multicultural Education at the Masaryck University of Brno (Social Pedagogics department) “to bridge all activities dealing with multiculturalism at all faculties”.

Similarly, in Germany a project has been established to create a “special team of professionals from all faculties in order to ensure the interdisciplinary implementation of issues related to multilingualism and inclusion”⁶⁰.

The project “life is diversity” in Germany North Rhine-Westphalia

⁵⁷ <https://www.lu.lv/eng/istudents/degree/study/master-educationaltreatment/>.

⁵⁸ <https://www.oecd.org/edu/ceri/42945624.pdf>.

⁵⁹ MIUR, Nota 36167, 5 novembre 2015 – Orientamenti operativi periodo di prova e formazione personale docente.

⁶⁰ European Commission, *Study*, p. 78.

has been set up by a network of teachers and the *Zentrum für Bildungsforschung und Lehrerbildung* (PLAZ) at the University of Paderborn. They aim to prepare teachers to cope with diversity issues by creating a network of teachers interested in interculturality, acting as a forum for discussion and exchange about challenges of teaching in diverse classrooms and supporting the practice by lectures and workshops on “Intercultural Classroom Management”, training for arguing against prejudices, representations of Islam in books, cooperation events with the Language Department of the University of Paderborn on issues of language teaching and the Zentrum on issues of multiculturalism⁶¹.

According to available literature, courses “focusing on culturally relevant pedagogies, social justice, diversity and intercultural education can improve student teachers’ intercultural attitudes, knowledge and competences”⁶².

These kinds of experiences, involving specific programmes meant to improve instruction methods and practices have had a positive impact, as evidenced by literature published mainly in the USA, Canada and Australia⁶³.

Working at the university level does not in itself guarantee frequent contacts with colleagues working in pedagogy, in fields where the techniques of debating and managing disagreements are professionally studied. A welcome innovation might precisely be a more across-borders, interdisciplinary approach, a reciprocal training between lecturers in different areas that are all faced with the challenge of diverse classes.

Classes in rhetoric, working sessions on debating techniques are being introduced in several curricula, also in law schools. In Milan, a proj-

⁶¹ <https://plaz.uni-paderborn.de/lehrerbildung/besondere-angebote/mitarbeit-in-projekten-und-netzwerken/hochschul-gruppe-leben-ist-vielfalt/>.

⁶² Study, quoted and reference to M. K. KITANO *et al.*, *Teaching in a Multicultural Classroom: Teacher Educators’ Perspectives*, in *Equity & Excellence in Education*, Vol. 29, No. 3, December 1, 1996, pp. 70-77; S. SEVERIENS, R. WOLFF, S. VAN HERPEN, ‘*Teaching for diversity: a literature overview and an analysis of the curriculum of a teacher training college*’, in *European Journal of Teacher Education*, 37(3), 2014, pp. 295-311.

⁶³ J.A. BIANCHINI, M.C. LYNNETTE, ‘*Learning from Students, Inquiry into Practice, and Participation in Professional Communities: Beginning Teachers’ Uneven Progress Toward Equitable Science Teaching*’, in *Journal of Research in Science Teaching*, 44(4), 2007, pp. 586-612; Study, quoted, p. 84. P. COWAN, H. MAITLES (edited by), *Teaching Controversial Issues in the Classroom, Key Issues and Debates*, London-New York, 2012.

ect has been recently launched to prepare graduates that mean to learn how to discuss a legal issue (“tecniche di argomentazione giuridica”) and to improve one’s communication skills (“abilità comunicative”)⁶⁴.

Elsewhere, similar training programmes have already gone through a fairly extended experimental period: e.g. as how to address a jury, or to negotiate effectively⁶⁵.

Having acted in 2015 as one of the members of the evaluation committee entrusted in Israel with the task of assessing quality of teaching in universities and law schools in Israel⁶⁶, Silvia Ferreri learned that several universities offer curricular classes on “debate and persuasion building”⁶⁷. Recently (2016) representatives from seven Israeli academic institutions participated in the *World Universities Debating Championship*, an academic event of considerable proportion, with students from 250 academic institutions from 70 countries⁶⁸. The teams’ objective is “to persuade the audience or the judges that their argument is right. The teams must make arguments, explain their positions, provide proof and examples, and disprove the arguments of the opposing team within a limited timeframe”.

This kind of training is crucial in areas where very controversial issues have to be constantly debated.

We should consider a more active training in debate and persuasion that would improve our relationship with our students and to improve their education experience.

⁶⁴ Università degli Studi di Milano, *Corso di perfezionamento in oratoria forense*, <http://www.oratoriaforense.unimi.it/obiettivi.html>

⁶⁵ S.H. KRIEGER, R.K. NEUMANN JR., *Essential Lawyering Skills: Interviewing, Counseling, Negotiation, & Persuasive Fact Analysis*, New York, 2003, pp. 137-148.

⁶⁶ The committee was international in its composition and nominated by the Ministry of Higher Education: see, e.g. Committee for the Evaluation of Law Study Programs Haifa University, available online at: che.org.il/wp-content/uploads/2016/07/Haifa-U-Law.pdf

⁶⁷ E.g., the “*debate club*” at DC Herzliyas’ private university “enables students to improve their debating and speaking skills. Debating is a competitive sport, whose aim is to champion a position through the use of rhetoric, logically building an argument and critical thinking”. portal.idc.ac.il/en/main/about_idc/.../pages/debateclub.aspx

⁶⁸ The “debate Club” of the College of Management Academic Studies (COMAS), at *Rishon LeZion* (Tel Aviv), sent a delegation to the competition in Greece, Thessaloniki, in 2016: <https://www.colman.ac.il/en/node/4114>

Abstract

Teaching comparative law classes may be challenging when presenting legal systems others than one's own to students who may themselves come from the legal tradition one is trying to illustrate to students. The difficulty has become increasingly clear when we have to address students belonging to cultures where the distinction between law and religion is not perceived as meaningful, or where the "rule of law" takes shades of meaning rather different from the conception we have developed in the Western experience. We are often unconsciously transmitting our underlying persuasions, we do not have a complete command of the foreign sources of law (language barriers may affect our knowledge), we are sometimes addressing sensitive issues (women equality, discrimination, autonomy of the judiciary and so on). How do we cope with these problems? Which suggestions are offered by experts on teaching to diverse classes?

Insegnare il diritto comparato a classi che includono studenti stranieri può diventare arduo. La difficoltà è incrementata dal momento in cui ci siamo trovati a dialogare con studenti che provengono da tradizioni giuridiche in cui la distinzione tra diritto e religione non è percepita come significativa, dove la "rule of law" o il principio di legalità ha connotazioni diverse da quelle a noi note nella nostra esperienza. Talvolta trasmettiamo in modo inconsapevole le nostre convinzioni di fondo, talaltra sottostimiamo o travisiamo certe fonti del diritto cui non abbiamo accesso per ragioni di lingua. Trattiamo di argomenti molto delicati (parità di genere, discriminazione, indipendenza del potere giudiziario). Come affrontiamo queste difficoltà? Che cosa ci suggeriscono gli esperti di docimologia quanto all'approccio a classi miste di studenti con provenienza diversificata?

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