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**BRINGING FOREIGN TEACHING EXPERIENCES INTO
THE U.S. CLASSROOM: IS IT ENOUGH TO GENERATE
STUDENT INTEREST IN FOREIGN LEGAL SYSTEMS
AND LAWS?**

United States professors will be in demand to provide courses, seminars and lectures in Europe and elsewhere throughout the world for the foreseeable future. The breadth and depth of the U.S. laws and regulations and the impact of common law in numerous areas will continue to provide a source of study in many countries and will necessarily lead to a continued outflow of U.S. instructors to distant places.

If the question is posed to a United States professor – what benefits are gained from teaching in a foreign country, the answer, I believe is clear. My years of teaching at the Center for American Law at the University of Warsaw have enormously enriched my knowledge and understanding of Poland, the civil law system and the relationship with the laws and policies of the European Union. I have been privileged to teach and lead workshops in many places throughout the world and the personal benefits have always been the same. I find it unfortunate that some U.S. professors and other instructors, indeed I might say “many” instead of “some”, view their foreign teaching role as limited to simply expounding on U.S. law to foreign participants and therefore, are not open to experiencing the richness of cross-cultural interchange, the challenge of understanding differing legal and structural systems and the opportunities to bring such foreign experiences into their U.S. classrooms.

I can only speak for myself when I discuss what can be brought back into the U.S. classroom as a result of foreign teaching. My courses are in the business law areas, including business organizations and securities regulation. One might think that the globalization of commerce has led to a harmonization of business laws but that has not been the case. Many significant differences remain. Where relevant, I bring those differences into the classroom to challenge students to consider whether in fact the U.S. business laws are indeed superior (as is the common local assumption). Without going into details, among the subjects that we discuss, all of which come from my foreign teaching experiences, are:

– contrasting the U.S. “at will” employment concept with the more protective workers’ rights in Europe and elsewhere (I once had a French student in my U.S.

class who openly expressed amazement at our lack of employment protection, a rather eye-opening experience for the students);

- contrasting the U.S. single board of directors with the European “dual-boards” model that allows for greater internal supervision of management decisions;

- contrasting the rather free-wheeling U.S. hostile takeover rules with those of the EU that much more define what a tender offer can do and what target directors can achieve by way of defenses;

- contrasting the U.S. securities laws that apply to every offer of a security regardless of number of offerees and amounts involved with laws in other countries that have *de minimis* standards below which government regulation is absent;

- contrasting the rather ambiguous criteria for formation of general partnerships in the U.S. (for which much litigation has ensued) with the formal registration of general partnerships that exists elsewhere.

Of course, I enjoy such discussion, but am I certain that my enthusiasm is matched by the students? No, I am not. Student reaction might be polite, but are they really thinking “we will humor the Professor who obviously loves foreign material, but this is not very important to us and surely will not be on the Bar exam”. I have the strong feeling, unfortunately, that bringing foreign laws and policies into the U.S. classroom has not, at least in my experience, generated, with limited exceptions, an appreciation for understanding foreign laws and legal systems. Why not? There might be several reasons. One, already mentioned, is the Bar exam orientation of so many students. Another might be the feeling that the discussion is quite tangential to the basic course material. A third might be the native insularity of American students, most of whom neither speak nor read fluently a foreign language. This latter factor sharply contrasts with foreign students I have taught, who quite appropriately understand the importance of speaking more than their native tongue and understanding that globalization now requires examining basic elements of legal systems other than their own.

So, is there a way to motivate U.S. law students to develop greater appreciation for foreign laws and legal systems? Perhaps, although it must be emphasized that law school administration and faculty must be genuinely committed to increasing students’ exposure to foreign legal principles and systems. Students are quick to realize what their law school regards as essential as distinguished from the required-but-non-essential. Here are several suggestions:

1. Require all students to take at least two courses that focus on international or particular foreign topics. When I first joined the faculty at the University of Florida there were required groupings of courses, of which international law was one. In recent years, law schools have moved away from requirements other than first year courses.

2. Using the tools of technology, create live-time, video-based courses in which U.S. students sit in with foreign students to discuss topics of mutual interest.

3. Again using technology, create courses taught by foreign instructors that can be accessed by U.S. students outside of regular course hours.

4. Develop a regular program of international-based courses taught by visiting foreign instructors. The University of Florida's Foreign Enrichment Program brings in 8–10 foreign instructors each year for 3-week teaching stints divided among 3–4 internationally-oriented courses. Of course, this solves only half the problem. The other requires aggressive marketing among the student body to develop adequate attendance for such courses.

Three other suggestions:

5. Law schools should develop foreign-language capacities, even at minimal levels, so that students have a basic understanding of principal terminology in foreign jurisdictions. At the University of Florida we are developing a course in Spanish legal terminology. Students will not become fluent in the language, but learning the language will necessarily entail a better understanding of the structural and legal concepts attached to such language.

6. Law schools need to create better scholarship opportunities for study abroad programs. Current loan programs help but usually will not cover the entire costs for travel, housing, meals and other expenses associated with foreign study.

7. Finally, and here is the most innovative of my suggestions, put internationally-oriented questions on each state bar exam. Although such subjects might be left by students for Bar Review courses, history shows that bar exam questions definitely drive student course selection. Questions could be based, for example, on (a) the European Union rules and their relationship to member country laws; (b) the North American Free Trade Treaty (NAFTA); (c) the World Trade Organization's role and operation; (d) application of trade regulations to multi-national corporations; (e) the jurisdiction and role of the International Court of Justice; and (f) fundamental differences between civil law and common law countries regarding private dispute resolution.

At the faculty level, I would strongly urge that all faculties have several members native to or trained in foreign countries, with principal emphasis upon the Far East, Europe and Africa, in addition to faculty members knowledgeable and experienced in the legal systems of our closest neighbors, including Canada, Mexico and the Caribbean. Adjuncts might be necessary to fill some of these roles but in any event these are geographic and subject areas that, in my judgment, should not be overlooked.

Will any of this really help? Will it stimulate a greater desire among U.S. law students to study and appreciate foreign legal systems and laws? I do not know. What I do believe, however, is that in the absence of greater efforts within law schools we will not be creating the necessary generation of young lawyers sufficiently versed to meet the demands of our global economy and our increasingly heterogeneous society.

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Summary

This article starts by invoking the value to U.S. law professors to teach in foreign countries. Among the positives is the ability to bring foreign law concepts into their U.S. teaching. However, it has been my experience that U.S. law students regard the discussion of foreign law as somewhat tangential and unimportant in their legal education. How can this attitude be changed. The article ends with several suggestions that may invoke a greater U.S. student interest in and appreciation for understanding foreign legal systems and concepts.

WPROWADZANIE NAUCZANIA PRAWA OBCEGO NA UCZELNIACH AMERYKAŃSKICH: CZY JEST TO WYSTARCZAJĄCE, ABY ZAINTERESOWAĆ AMERYKAŃSKICH STUDENTÓW OBCYMI SYSTEMAMI PRAWA?

Streszczenie

Niniejszy artykuł podkreśla korzyści dla tych amerykańskich nauczycieli akademickich, którzy uczą w innych krajach. Jedną z nich jest możliwość adaptacji i porównania zagranicznych koncepcji prawnych do ich praktyki akademickiej. Jednakże autor sam doświadczył tego, że amerykańscy studenci prawa odnoszą się do dyskusji o prawie innych państw, jako do czegoś niedotyczącego i nieważnego dla ich studiów prawniczych. Jak zatem zmienić ich nastawienie? Ten artykuł proponuje kilka rozwiązań, które mogą wpłynąć na większe zainteresowanie i uznanie wśród amerykańskich studentów dla obcych systemów prawnych i nowych instytucji prawa.

KEYWORDS

international law study, legal education in U.S., foreign law teaching, teaching business law, teaching business organizations

SŁOWA KLUCZOWE

studia prawa obcego, prawo państw obcych, studia prawnicze w Stanach Zjednoczonych, nauczanie prawa handlowego, nauczanie prawa spółek