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ENGLISH LAW: WINDOW ON BRITAIN

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This paper shares materials, pedagogy and experience from the author's course for U.S. students studying a semester in the U.K. The course focused on basics of English law and legal history, with an additional effort to utilize the material to teach about English culture and values, and the interrelationship of law and culture. The information is imparted as a starting point for others planning to teach legal studies in the U.K., especially in London. It also suggests comparative legal studies as a suitable course for intercultural learning at other study abroad venues.

I. INTRODUCTION

I imagine I was not alone: a legal studies professor in a business program, with considerable knowledge of U.S. and commercial law and some knowledge of international law, but with limited exposure to the domestic law of other countries such as the U.K. I had the opportunity to teach a study abroad course in the U.K. for my liberal arts university but wasn't sure how to match my knowledge base with the interests and abilities of thirty U.S. and international students, most of whom had no prior legal studies training and perhaps little interest in international or domestic business. Their varied majors included theater, photography, mathematics, biology, peace studies, and literature, as well as accounting and business. U.S. law was only peripherally relevant to their study abroad experience. My knowledge of international law was too commercial for this group and did not focus on the host country in any event. I certainly had no experience with contemporary law in the U.K. But I seldom miss an opportunity to teach about the law and therefore would not relinquish legal studies as the course topic.

My particular solution was to teach a course that addressed the sources and administration of English law in a general sense, with vignettes of substantive law areas as suggested by current events or matters of particular student interest. The course focused on basics of English law and legal history, with an additional plan to utilize the material to teach about English culture and values, and the interrelationship of law and culture.

This paper is intended to share materials, pedagogy and experience from that course as a starting point for others planning to teach legal studies in the U.K., especially in London. It also suggests comparative legal studies as a suitable course for intercultural learning at other study abroad venues. Parts II and III give descriptions of the legal and cultural content of the course, respectively. In Part IV, the lessons learned from the experience are discussed and summarized. Since teaching a study abroad course for the first time may be as much of a learning experience for the professor as the students, most of these lessons are my own.

II. LAW CONTENT

An apt description for the course might be:
“English Law (and Culture):”¹

The United States and England share the heritage of a common law system developed by the English over the centuries. Many of the underlying concepts in English law would be familiar to lawyers in the United States. But time and varied circumstances have also resulted in differences between the two systems. This course will explore selected topics in English law, incorporating historical, sociological, topical, and literary works as a window to British culture.

The use of “England” and “English” is not an oversight. “English law” refers to the law and legal system of England and Wales. This is one of three separate legal systems existing in the United Kingdom. The other two systems are those of Scotland (Scots law) and Northern Ireland (Roach, 2012).

A. English Common Law and Its History.

An introduction to the workings of the common law provided a ready starting point for legal studies in this course. English common law could be introduced much as in a U.S. legal environment course. The terminology of *precedent*, *stare decisis*, *stare rationibus decidendis*, *ratio decidendi* and *obiter dicta* all came from much the same playbook I had studied in law school (Roach, 2012). In fact, many cases from early law school were English and were obviously applicable (Legrand, 1997).² Initially, I planned to use historical cases to teach common law, but ultimately I used a contemporary case (*Levi v Bates*, 2012), with modifications. An older case would have been more useful to illustrate the development of the common law, as will be discussed later. But *Levi v. Bates* (2012) introduced issues of harassment, privacy and defamation, which were active topical issues in the British press.

Material on the distinction between the civil law and the common law can also be adapted from U.S. legal environment courses. I found this topic especially important in England for the opportunity it provided to introduce the mixed web of civil and common law that the U.K. functions within, both internally and internationally. Scotland is part of the U.K., but Scots law is civil, not common. law. Yet, Parliament is a source of law in many areas for Scotland (Roach, 2012). The European Union is a source of law for the U.K. which supersedes inconsistent domestically produced U.K. law (Roach, 2012). E.U. law reflects the civil law systems used by most of its members (Legrand, 1997). At the same time, Britain retains strong ties with common law countries such as the U.S. and member states of the Commonwealth. These distinctions are not insignificant. As Prof. Pierre Legrand (1997) has noted, “(t)he civil law and common law discourses, each with its own internal grammar, must be apprehended as reflecting different world-views” (p.62). The complexity that these contrasting legal approaches create in international relations for Britain provide a topic for class discussion.³

Course assignments and discussion on the history of the common law introduced the shared historical roots of the English, U.S. and Commonwealth legal systems.⁴ It was difficult to determine how much of this material to cover in the course. Personally, I found it fascinating and think a history of English law could be an alternate study abroad course. Even in the limited form used in this course, it was instructive. A text by Professor Van Caenegem (1988) provides a useful introduction of this history and analysis of the law’s development. He attributes the unique development of England’s law to the centralization of the courts, the writ system with an established bench of judges, and the development of evidentiary processes such as juries, not tied to divine intervention.⁵

- a. The centralized courts were subsequently studied as part of the English legal system. The writs took too much development to study in depth in this course (Baker, 2010; Milsom, 1981; Simpson, 1995).
- b. But as we studied torts, it still seemed possible to see the English courts working within the confines of precedent more than a U.S. court might. The concept of the writ and its role in the development of the common law could also tie with this. In a course with greater emphasis on torts, the references below offer historical cases that might be developed to illustrate this further.
- c. Change of methods of proof in the development of the common law illustrated very nicely a cultural shift in England and elsewhere from trial by ordeal, battle and compurgation to the increased use of juries for fact finding (Milsom, 1981). The oath itself remained, but for different purpose (Van

Caenegem, 1988). Later, as they toured the Royal Courts of Justice, my students noted that the oath was still used, but the witness swore on a text appropriate to his/her religious belief.

If a study abroad course addressed contract law in greater depth, the history of the methods of proof, and of contract actions in general, might be useful. In the course, a brief period was given to discussion of the vision of medieval community life offered by the descriptions of compurgation and trial by ordeal (Milsom, 1981; Van Caenegem, 1988). But further coverage of English contract law, or of common law history, might also review the transition from subjective to objective intent in English common law. Charles Spinosa discusses the record of this transition found in Shakespeare's *Merchant of Venice*, (1994). William O. Scott's discussion of bonds, forfeitures and vows in the same play provide another opportunity to use literary material in the course (2004).

B. Sources and Administration of English Law.

Class study of the sources and administration of English law were combined with field trips to relevant sites. The students' textbook provided a written outline of these topics, but it made more sense to the students once they had visited the locations.

England (the U.K.) does not have a written Constitution in the fashion of the U.S., but many of the rights considered "constitutional" in the U.S. can be found in English law.⁷ In England, most rights that we would think of as "constitutional" are derived from Parliamentary acts, the common law, or even custom (Roach, 2012). Therefore, just as in the U.S., due process concepts are familiar: public trials are the norm and the independent "watchdog" role of the media is valued (Mullis, 2010; U.K. Ministry of Justice, "Royal Courts of Justice frequently asked questions"). The concept of rights versus the government can be conveyed to students visually with a trip to see the Magna Carta at the British Library, or the field where it was signed at Runnymede. The library has multiple copies of the document and a short interpretive display (British Library, "Magna Carta- treasures in full").

Therefore, Parliament, not a constitution, is the "supreme law of the land" in England (Roach, 2012). It is not merely the "legislative branch" of a tri-partite system of checks and balances, as in the U.S. and generally the courts have no right of judicial review over its actions (Roach, 2012). What is striking is how accessible the activities of this central source of power are to the British people. Tours of the buildings are offered to the public each Saturday and on weekdays, the building is open to educational tours. Floor debates and committee sessions are open to the public (U.K. Parliament, "Visiting"). After a weekday tour, my students waited a few hours to watch a House of Lords debate on the Defamation Bill we were studying in class (U.K. Parliament, "Defamation Bill 2012-2013"). On the user-friendly Parliament website, one can follow Parliamentary activity and subscribe for advance daily notices of house and committee activity on legislation. As I received e-mail notice of the next actions on the Defamation Bill, I could schedule myself to attend floor debates or committees, watch a stream of the event from the Parliament website, or check Parliament TV. My students commented on how they enjoyed the Prime Minister's question session televised on Wednesdays. The report of debates, questions and other proceedings in the House of Commons and House of Lords are reported in Commons Hansard and Lords Hansard, respectively. These are available online (U.K. Parliament, "Publication and Records").

Open public access to the centralized court system of England facilitates further study of the common law and its administration. Courts of all levels can be found in London and, as in the U.S., are generally public (U.K. Ministry of Justice, "Royal Courts of Justice frequently asked questions"). My students toured the Royal Courts of Justice, which can be arranged through the Tour Organiser (U.K. Ministry of Justice, "Justice Tours"). Virtual tours of the Rolls Building are also available (U.K. Ministry of Justice, "HM The Queen Opens the Rolls Building"). While my students watched cases in the Queen's Bench Division, criminal matters are perhaps of greater interest to students and easier to understand. If combined with a course on "constitutional" or human rights, criminal courts like Old Bailey might be of interest.⁸ The Supreme Court is also open to the public (Constitutional Reform Act 2005, s 40). A contrasting view of London can be seen in the Magistrate (or Justice of the Peace) courts (City of London, "Magistrates' Court," 2013). These are presided over by non-lawyers, and many criminal cases are heard

here. As noted in the course textbook, “the rationale behind putting laypersons on the bench is the same as that behind the use of the jury: it allows everyday members of the community to become involved in the justice system and reinforces the notion of a participatory democracy” (Roach, 2012).

On the website for the Royal Courts of Justice, it is possible to subscribe to a service listing all matters before each court on any particular day, as well as the times and courtrooms (U.K. Ministry of Justice. “Daily Court Lists”). The listing does not disclose case type, which despite my efforts to find additional information, I could only divine by making guesses from the court assignment and case name. Higher profile matters are noted in the press. While observing cases, one needs to be mindful of rhythm of the English term calendar. For the Queen’s Bench Division of the High Court of Justice, I noted that matters seemed to finish or wane with the cycle of the term. Students can observe this cycle visually as Michaelmas term opens with fanfare in October (U.K. Ministry of Justice. “Practice direction 39B-court sittings”; U.K. Ministry of Justice. “Queen’s Remembrancer”).

The legal professionals of England are an integral part of the process. Guided tours through the Inns of Court are available, some from former barristers.⁹ The closed clusters of Inns and Chambers- such a contrast to the open halls of Parliament and Courts- echo the composite of expertise that Professor Van Caenegem described as so critical to the development of the common law (1988). In my experience, English legal professionals exhibited a public service disposition similar to lawyers in the U.S. A solicitor kindly came to my class and shared his insight on English law and the role of Anglo-American law in international business. To further illustrate the barrister system and to provide contrast to actual court observation, I had considered assigning readings from “Rumpole of the Bailey” by John Mortimer. But time constraints did not permit me to track down a chapter or a section from the popular BBC televised version that fit with other course content. This traditional English barrister-solicitor model is also undergoing change. The Legal Services Act of 2007 allows legal services to be provided through “alternate business structures” and by some non-lawyers (Legal Services Act 2007: Legal Services Board. “Welcome to the Legal Services Board”).

Another source of law, rare now but apparently dominant in Anglo-Saxon times, is that of custom. It is now fixed by statute to be a custom which must have existed since “time immemorial” and in my research the cases found were most often akin to prescriptive or adverse possession cases in the U.S” (*Regina v. Oxfordshire County Council*, 1999; Roach, 2012).¹⁰

In addition to domestic sources, English law is now influenced by international sources, such as the European Union (“E.U.”) and the European Convention on Human Rights (“ECHR”) (Roach, 2012). Section 2(1) of the European Communities Act 1972 gives “directly applicable or effective E.U. law precedence over domestic law” (Roach, 2012, p.91). *Regina v. Secretary of State for Transport, ex parte Factortame Ltd.*(1992) provides illustration (Roach, 2012, p.91). In this case, the E.U. Common Fisheries Policy had provided for national fishing quotas to be fixed. Spanish fishing firms attempted to avoid these quotas by registering as U.K. vessels. When U.K. law (the Merchant Shipping Act 1998) fixed nationality, residence and domicile requirements for legal and beneficial owners, charterers, and managers and operators of fishing vessels registered on a its register so as to restrict these practices, Spanish vessels such as the Factortame challenged the law as discriminatory under E.U. law. On 25 July 1991, the European Court held that although member states could determine in accordance with the rules of international law the conditions for the registration of vessels on their registry and the right to fly their flag, they still had to comply with (European) Community law. The Court further held that the U.K. requirements were contrary to Community Law. This influence of the E.U. is not fully accepted in the U.K. (European Communities Act 1972 (Repeal) Bill 2012-13; Everson, 2010; Gardner, 2010).

The English courts have also applied and enforced the ECHR, which requires English law be consistent with rights protected in the ECHR, as discussed in the following section.

C. Selected Areas of Law.

The particular topics of substantive law selected for the course were negligence, employment (and discrimination) and “defamation/media.” The course textbook provided the necessary background for each of these topics. Employment law was selected because of the contrast it offers to U.S. employment

contracts. English law imposes implied and express terms to employment contracts that protect employees from termination and compensate longer term employees if laid off. Temporary employees have rights to benefits. Maternity and paternity leaves can extend for 52 weeks, in some circumstances (Roach, 2012). Negligence and defamation were selected because they are examples of English law that use similar terminology to their U.S. counterparts, but with some differences that effectuate very different results. Defamation was also selected because it was in the contemporary news.

The active British press facilitated the use of current events for the course. In addition to major line newspapers, a lively free press provides papers at the Underground stations and many commuters read the news morning and evening (All You Can Read. com. "London Newspaper List," 2001-2013). Some of these papers are quite sensational, but they often comment on political issues as well as celebrity matters and sports. If the news involves telephoto pictures of an underdressed Duchess of Cambridge, as it did in the Fall of 2012, the story would be well covered. But coverage in the print, television and electronic media also included discussions about the rights of the press in these matters, privacy, revived consideration of press harassment of the late Princess Diana, and examples of different press and privacy policy through the E.U. (Alleyne, 2012; Harassment Act 1997). The news regarding defamation of Lord McAlpine and his subsequent lawsuits also occurred during this time (Sears, 2012). The Leveson Inquiry and Report on the role of the print media was a major topic (Leveson, 2012). The Defamation Bill was before Parliament. In summary, the media gave considerable coverage to discussion of the appropriate role of the media/ rights of expression when in conflict with rights of privacy and reputation. News coverage and multiple sources for explanation of the basic law made it easy to pull these issues into the classroom.

At first glance, English defamation law tracks its U.S. counterpart: there must be a defamatory statement (one that tends to "lower the claimant in the estimation of right-thinking members of society generally") it must be published, and it must refer to the claimant (Mullis, 2010, pp.1381-1382; Roach, 2012, p.431). But U.S. law generally places the burden of establishing the truth of the statement on the claimant, not the defendant. In England, falsity is presumed in the claimant's favor: analogous to the presumption of innocence in a criminal matter (Mullis, 2010, p.23). The defendant must prove truthfulness, as part of the defense of "justification." Nor is opinion as strong in defense. The English defense of "fair comment" requires that a defendant who expresses an opinion establish the comment was made without malice, on a matter of public interest and that it was an honest expression of opinion based on facts which are substantially true or privileged (Mullis, 2010, p.209; Roach, 2012).

The strong protection of reputation in English law (Mullis, 2010) is alleged by some to stifle scientific debate. The fear of expensive lawsuits¹¹ and possible damages can chill speech, even if the defense ultimately succeeds (*El Naschie v. Macmillan Publishers Ltd.*, 2012) Common concerns about defamation law in England are highlighted in the provisions of the Defamation Bill before Parliament in 2012-2013:

- claimants must show that they have suffered serious harm before suing for defamation
- removal of the current presumption in favor of a jury trial
- provision of a new defense of "responsible publication on matters of public interest"
- increased protection to operators of websites that host user-generated content, providing they comply with the procedure to enable the complainant to resolve disputes directly with the author of the material concerned
- provision of new statutory defenses of truth and honest opinion to replace the common law defenses of justification and fair comment.

The incorporation of the ECHR into English law by the Human Rights Act (1998) has considerably impacted English defamation law. English courts are required to read statutes in a way that is compatible with the Convention and, if they cannot, they are to declare the relevant legislation incompatible. If the English court finds that an existing law does not infringe on the ECHR, a litigant can "provided he has exhausted the domestic remedies available to him, apply to the European Court of Human Rights for a

finding that the relevant decision of the domestic court has infringed on one or more of his Convention rights” (Mullis, 2010, p.3-4).

While reputation is not expressly included in the ECHR, the European Court on Human Rights and the domestic English courts recognize reputation as a right which, as an aspect of private life, is protected by Article 8 of the ECHR. Freedom of expression is protected by ECHR Article 10 (Mullis, 2010). Neither of these Articles has primacy over the other, leaving the courts and Parliament to balance the respective interests. As stated in the case of *Re S (A Child)*:

“...The interplay between articles 8 and 10 has been illuminated by the opinions in the House of Lords in *Campbell v MGN Ltd* [2004] 2 AC 457. ... What does, ... emerge clearly from the opinions are four propositions. First, neither article has as such precedence over the other. Secondly, where the values under the two articles are in conflict, an intense focus on the comparative importance of the specific rights being claimed in the individual case is necessary. Thirdly, the justifications for interfering with or restricting each right must be taken into account. Finally, the proportionality test must be applied to each. For convenience I will call this the ultimate balancing test” (2005, par. 17).

Similarly, the legislation supported in Lord Leveson’s Report on the print media provides for a form of press regulation to protect reputation, among other interests (Leveson, 2012).

While the English and U.S. defamation law are so similar in language and concept, they are quite different. When contrasted to protections for the press in the U.S. First Amendment and cases such as *New York Times Co. v. Sullivan* (1964), reputation appears to have greater protection in English law. In comparison, U.S. law provides weaker protection for reputation. In English law, reputation is carefully protected with a “presumption of innocence” and freedoms of expression and the press have no *a priori* status. It is a legal divergence such as this that can be a subject for class discussions about culture.

III. CULTURAL CONTENT

A society's cultural values are embedded in its laws and institutions (Baptista, 2007; Licht, 2001; Licht, Goldschmidt and Schwartz, 2005). The course took advantage of this interrelationship. Over the summer, the students were assigned readings and written discussion questions from the text *Cultures and Organizations, Software of the Mind*, by Geert Hofstede, Hofstede and Minkov. (2010) (collectively referred to as “Hofstede”). While many other cultural schemas are available, Hofstede’s schemas are long established, focus on organizations and explain typical ties between particular political-legal systems and particular dimensions. The written assignment asked the students to compare the dimension scores found by Hofstede for the U.K., the U.S., and certain diverse ethnic groups found in London.¹² At the end of the semester, the students were asked to reflect on possible relationships between traditional British cultural values and the English law and legal system.

Dimension scores from Hofstede are shown in the table below. As demonstrated, this theoretical approach not only places the U.S. and U.K. in the same cultural category in every instance, but also scores them very close to one another within the categories to which they are assigned.

**TABLE 1
SELECTED CULTURAL DIMENSION SCORES**

Dimension	U.S.	U.K.	India	Poland	Jamaica	Dimension Range
IND	91	89	48	60	39	6 - 91
MAS	62	66	56	64	68	5 - 110
PDI	40	35	77	68	45	11- 104
UAI	46	35	40	93	13	8 - 112

Hofstede's original work posited four categories, or "cultural dimensions" which were purported to cover the essential cultural issues that affected behavior in work and organizations, though two more categories were added later. These were determined by statistical analysis of the responses an international group of workers gave to a standardized questionnaire. Hofstede uses one dimension to measure the extent to which a given culture is "collectivist" or "individualist." "Collectivism ..pertains to societies in which people from birth onward are integrated into strong, cohesive in-groups, which throughout people's lifetime continue to protect them in exchange for unquestioning loyalty" (Hofstede, Hofstede, & Minkov, 2010, p. 92). Individualism is the opposite of collectivism, and "pertains to societies in which the ties between individuals are loose: everyone is expected to look after him- or herself and his or her immediate family only" (Hofstede et al., 2010, p. 92). The U.S. and U.K. are rated very similar on this score. Indeed, they rank as the first and third most individualistic countries, respectively, in a sample of 76 nations (Hofstede et al., 2010, p. 95). Hofstede finds a culture's score on the individualism dimension, referred to as its "IND" score, has impact on the relationship of the individual to the state. "In the individualist society, laws and rights are supposed to be the same for all members and to be applied indiscriminately to everybody..." (Hofstede et al., 2010, p. 126). Hofstede finds, in part, that in an individualist society everyone is expected to have a private opinion, everyone has a right to privacy, higher human rights ratings, ideologies of individual freedom prevailed over ideologies of equality, and autonomy is the ideal (2010).

On the second dimension, Masculinity-Femininity (MAS), the U.K. and U.S. also score relatively the same. "A society is called masculine when emotional gender roles are clearly distinct: men are supposed to be assertive, tough, and focused on material success, whereas women are supposed to be more modest, tender, and concerned with the quality of life. A society is called feminine when emotional gender roles overlap: both men and women are supposed to be modest, tender, and concerned with the quality of life" (Hofstede et al., 2010, p.140). Hofstede notes that in masculine societies there is support for the strong, society is corrective, the political game is adversarial with frequent mudslinging, and few women are in elected positions (Hofstede et al., 2010, at p.180 Table 5.6).

While still very similar, there is a slightly larger distinction between the U.K. and U.S. on the third dimension of power distance (PDI). Both nations have very small power distance, but of the two, the U.K. is the lower. My students reported observations of this in their internships. Power distance is defined as "the extent to which the less powerful members of institutions and organizations within a country expect and accept that power is distributed unequally" (Hofstede et al., 2010, p.61). It is therefore the value system of the less powerful members (Hofstede, 2010). Hofstede reports that small power distance results in the expectation that the use of power be legitimate and follow criteria of good and evil; that all should have equal rights; that power is based on formal position, expertise, and the ability to give rewards; and that scandals end the political careers of those involved (Hofstede, 2010, p.83 Table 3.5).

There is a greater distinction between the dimensional scores of the U.S. and U.K. (albeit still small) in the fourth dimension, uncertainty avoidance (UAI). The U.K. score is lower or less risk avoidant. Hofstede defines UAI as "the extent to which the members of a culture feel threatened by ambiguous or unknown situations. This feeling is, among other manifestations, expressed through nervous stress and a need for predictability: a need for written and unwritten rules" (Hofstede et al., 2010, p.191). Hofstede states that in a society with weak uncertainty avoidance there will be fewer and more general laws and unwritten rules; that if laws cannot be respected they should be changed; that citizens are competent toward authorities; that citizen protest is acceptable; that civil servants do not have law degrees; that citizens are interested in politics; that citizens trust politicians, civil servants, and legal system, that the burden of proof for identifying a citizen is on the authorities, not vice versa; and there is tolerance even of extreme ideas (Hofstede et al., 2010, p.223 Table 6.5).

These dimensions and the respective ratings for the U.S. and U.K., gave the students opportunity to consider and discuss the relationship between cultural values and law. In particular, it gave them the opportunity to think about what English law might reveal about the English. For example, scholars have found low uncertainty avoidance consistent with the features of English common law (Hofstede et al., 2010, p.218; Legrand, 1997). The sensitivity of the common law for the facts of each case might not work

as well in a high UAI culture. One author has referred to findings that the English “feel definitely uncomfortable with systems of rigid rules” to the point of having “an emotional horror of formal rules,” and that the English “pride themselves that many problems can be solved without” such rules (Legrand, 1997, p.50). The fully developed and defined rules of the civil law system might be too much for a low UAI culture (Legrand, 1997). The website and physical access to government, as well as apparent high news readership, even the existence of the BBC all might be help citizens who are interested in politics.

In all of these cultural discussions it was necessary to help students keep a perspective on the use of cultural values. What Hofstede describes is, in part, desired states of society; stable beliefs of the group about how the world should be. A society may not always follow expected norms and any individual behavior cannot be assumed to do so. In sessions before travelling to the U.K., the students were given an exercise to help them use cultural values and other generalizations as a point of inquiry, rather than as a conclusion. The exercise practices using generalizations as hypotheses, or “questions with an observable component” (Paige, 2010).

Much of what was discussed in this course, because of its relationship to English law, was "traditional" culture. But being in London particularly the students saw a diverse population. Further discussion might be had about how the English common law system might not be as well suited to recent immigrants from societies with different cultural values and how English law might address this. In England and elsewhere, for example, arbitration and mediation allow the parties opportunities to fashion processes that better fit their cultural values. Examples are the use of mediation/arbitration for family dispute resolution and inheritance issues.

VI. LESSONS LEARNED

England, especially London, provide a hospitable study abroad venue for comparative law. Because of the shared legal history and language, perhaps also because of the similar cultural values, it is possible to “follow” and learn English law to some extent. The centralized and public legal system provides opportunities for “legal” field trips.

The two foci used in this course- an overview of the legal system and an examination of selected topics- each provided a different window to British culture and both were useful. The selected topics required more effort to teach and learn. But they revealed divergences between U.S. and English law that raised interesting questions about British culture. For example, the law suggests that reputation matters so much more in traditional British culture than it does in the U.S. As a result, I was curious to observe the phenomenon of “reputation” in Britain and to find clues of what this might mean (if anything) in terms of cultural values.

The experience of this course suggests that undergraduate “comparative legal studies and culture” may travel to other study abroad venues as well. In the case of a legal mono-linguist such as me, this may require a much generalized approach to the host legal system. But even if the language or the legal system of the host country is not amenable to ready comprehension, there is much to learn in the comparative study of civil and common law, their respective histories, and the cultural values of the host country.

NOTES

- ¹ The original course description in the catalog was slightly different.
- ² Particular English cases may be searched and accessed at BAILII: The British and Irish Information Institute. See References, below.
- ³ Consideration of the possible cultural aspects of common law and civil law might provide alternate perspective to U.K debate about continuance in the E.U. and the European Court of Justice, but this was not researched. Examples of this debate can be readily found in Parliamentary documents, European Court of Justice and English cases on human rights and the popular press. (European Communities Act 1972 [Repeal] Bill 2012-2013), (Everson, 2010) & (Gardner, 2010).
- ⁴ Students commented that they had not realized this common background of the U.S. and English legal systems.
- ⁵ While Van Caenegem focuses on actions of the Norman Henry II, he does not deny the previous Anglo-Saxon legal institutions which they overlay. Student excursions to the Tower of London and Dover Castle provided context for discussion of the two contemporary cultures.
- ⁶ The textbook used was Roach (2012). Of the four suitable textbooks I reviewed, Roach was selected for its inclusion of recent restructuring of the English court system and the establishment of the Supreme Court.
- ⁷ Many of these rights are also protected in the European Convention on Human Rights (ECHR), as discussed in following sections herein. Another alternate legal studies course in Britain might address compare what in the US we would refer to constitutional issues, either directly or comparatively. This allows the addition of material from the ECHR.
- ⁸ Judges and barristers are also more likely to wear wigs and robes- as the students expect- in criminal matters. But students should be warned that cell phones and other electronics are not allowed in Old Bailey and there are no lockers or other places to stow them. (City of London, “Central Criminal Court”). The Royal Courts of Justice, Rolls Building and Old Bailey are conveniently proximate.
- ⁹ A tour for my class was arranged privately, but this is available from a group such as the Blue Badge Guides.
- ¹⁰ A study abroad course in rural England might focus on customary, real property and inheritance law.
- ¹¹ The losing party pays attorney’s fees in English courts. (Roach, 2012)
- ¹² The diversity of London (recent census data show the population of London to be 44.9% white British) (U.K. Office for National Statistics) India, Poland and Jamaica are the emigration points for significant ethnic groups in London. (U.K. Office for National Statistics) Time did not allow for considered examination in this course of how English law might respond to cultural diversity. The scores of these groups are left in the Table to suggest additional scope in comparative law in a study abroad course.

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