INCORPORATING OBJECTIVES OF THE EUROPEAN HIGHER EDUCATION AREA TO TRADITIONAL LAW STUDIES

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Abstract

During the process of adaptation to the European Higher Education Area (EHEA), two kinds of law students coexist in Spanish law schools: those who have commenced their studies following the traditional teaching methods and those who have started their law degree within the framework of the new EHEA. In a short period of time, students coming from both systems will compete in the labour market, leaving those coming from the traditional system in a disadvantageous position.

Our proposal consists of bringing into the classroom teaching methods which allow “non-EHEA” students to gradually acquire those abilities and horizontal and professional skills used in the EHEA, i.e labour market values.

For this purpose two objectives are pursued. On the one hand, to adopt a Meaningful learning perspective and to help the student develop critical thinking, contributing to permanent and lifelong learning. On the other hand, we wish to make the student participate in the classroom decisions, assume the responsibility and compromise of their own educational process and foster the transition from the fully guided to independent student.

With regard to the Method we apply, while lectures retain an important role, they are combined with different techniques and strategies to enable Significant and Independent learning. Thus, to encourage Meaningful learning, we use several techniques: one is trial simulations in which students can confront each other and apply their previous knowledge in a Real-life scenario and receive feedback. Another one is the use of videos in which they contextualize the situations they study. Finally, we propose case-studies that highlight the limits of Law at the time of confronting complex realities in a changing social environment. This way, we want students to confront the knowledge they have gained during their studies with real situations, so that they can be critical and reflective.

The second objective is to promote independent learning by encouraging student participation in the guidance of their learning process. To achieve this goal we use three techniques in a gradual way. The first one provides students with the opportunity to choose an area of concentration (CA), in which they gain special and unique strength. A second way is to promote Cooperative learning, in which each student must make a necessary input to achieve the learning objectives of the Class, mainly related with their CA. The third way is the creation of a Classroom Assessment Committee (CAC) to evaluate the learning process followed in the course. Through this CAC we get permanent feedback on the achievement of the learning objectives, so we can make changes along the academic year.

In the application of these techniques some difficulties have arisen. However, the result is satisfactory not only to help students acquire the specific skills, competences and abilities they need, but also to improve their motivation and performance.

Keywords - Law; EHEA; Strategies; Meaningful Learning; Classroom Assessment.
1 OBJECTIVES OF THE EUROPEAN HIGHER EDUCATION AREA

The main objective of the Bologna Process is to create a European Higher Education Area (EHEA). The Process unites 46 countries which are party to the European Cultural Convention and are committed to the goals of the European Higher Education Area. The rapprochement of the different education systems is the way to achieve the mutual recognition of degrees and study periods in Europe. The university teaching methodology towards which it is aimed to converge is quite different from the one used in the traditional law studies of most of the European countries.

Social and professional needs are increasingly influencing the demands of training and the way it is carried out. As it has been pointed out, the emerging new society, based on the service economy and knowledge of professionals requires a new element, innovation. This implies knowing what exists, but also taking the risk of different ways of thinking, exploring and investigating. It also means the ability to work with others, being able to communicate, etc. [1]

Under the Bologna Process, professors are encouraged to establish clear learning outcomes to their courses. Learning outcomes include subject specific competences and generic competences or transferable skills. This design provides valued information to employers. It also provides a context for effective quality assessment [2]. In this sense, “traditional models and methods of expressing qualification structures are giving way to systems based on explicit reference points using learning outcomes and competencies, levels and level indicators, subject benchmarks and qualification descriptors. These devices provide more precision and accuracy and facilitate transparency and comparison” [3].

The year 2010 will mark the passage from the Bologna Process to the EHEA. But starting now and during the next three or four years, two kinds of students are going to coexist in Spanish Law Schools: those who commenced their studies following the traditional method and those who have started their law degree within the framework of the new EHEA.

One of the purposes of higher education is the preparation for the labour market. In a short period of time, students coming from both systems will compete in the labour market, leaving those coming from the traditional system in a disadvantageous position. In fact, during many years, “employers have complained that the current education systems of many European countries provide students with insufficient preparation for the labour market, and this concern was one of the driving forces behind the Bologna [Process]” [4].

One recent survey of employers, graduates and academics of different subject areas showed that the generic competences that employers consider more relevant are the capacity to learn, the capacity for applying knowledge in practice, the capacity for analysis and synthesis, the capacity to adapt to new situations and interpersonal skills [5].

2 PROPOSAL AND OBJECTIVES

Our proposal consists of bringing into the classroom teaching methods which allow “non EHEA” students to gradually acquire those transferable skills.

For this purpose two objectives are pursued. On the one hand, we intend to adopt a meaningful learning perspective and to help the student develop critical thinking, contributing to permanent and lifelong learning.

A meaningful learning perspective is produced when learners are able to connect their knowledge with the previous one they had already acquired [6], providing the new knowledge with more meaning for the learner and enriching and appraising the previous one [7]. The first step for enabling meaningful learning has to do with the curriculum. “Students must find relevance in the curriculum so that they can see how it relates to their lives. Curriculum is at its best when it poses a question or problem that motivates students to solve it by learning new information” [8]. But it is also very important to develop successful instructional strategies. Taking into account that “students learn best when they have to think deeply about the ideas under study”, “teachers will need to develop an attitude favourable to critical thinking within a variety of contexts. Among these are the construction of knowledge, an inquiry approach, technology strategies and cooperative learning. Laboratory investigations provide connections to concepts, problem-solving, critical thinking and scientific processes” [9]. A meaningful
learning of knowledge is not a simple memorization. It implies the ability to reason and to connect the information to reality to be able to implement it critically [10].

Lifelong Learning is an essential element of the EHEA since the Ministers met in Prague in 2001. In a knowledge-based society and economy, lifelong learning strategies are necessary to face the challenges of competitiveness and the use of new technologies, and to improve social cohesion, equal opportunities and quality of life. Lifelong learning is considered to be a cross cutting issue, inherent in all aspects of the Bologna Process. According to the Prague Communiqué, goals for lifelong learning will be substantially achieved by: improving the recognition of prior learning, including non formal and informal learning; creating more flexible, student-centered modes of delivery; and widening access to higher education [11].

On the other hand, we wish to make the student participate in the classroom decisions, assume the responsibility and compromise of their own educational process and foster the transition from the fully guided to the independent student.

The new trends encourage preparing a teaching strategy based on learner autonomy. One of the most important educational challenges in the knowledge society is the development of autonomy in learning [12]. Student participation in classroom decisions develops their commitment to learning and triggers more favourable attitudes towards the subject [13]. According to the recent Conference of European Ministers, “student-centered learning requires empowering individual learners, new approaches to teaching and learning, effective support and guidance structures and a curriculum focused more clearly on the learner in all three cycles” [14].

3 METHODS AND TECHNIQUES

With regard to the method we apply, while lectures retain an important role, they are combined with different techniques and strategies in order to enable Significant and Independent learning.

3.1 Meaningful learning

A. The use of videos and movies to contextualize the Theoretical framework they previously study in the classroom.

One technique consists of using videos and movies to contextualize the Situation previously studied in the classroom. We assume that the use of movies or videos contributes to meaningful learning.

As noted by some authors, Cinema shows to us lives in motion. In movies, humans beings have to make decisions, and those decisions usually have consequences. A film allows viewers to take different roles and think about decisions that they probably would not have taken otherwise. They can be a victim, executioner, hero or even a failure. In this way, a viewer can explore the consequences of many human actions, can compromise their own actions and assume the responsibility that it entails. This makes films a valid instrument to transmit and receive values. Moreover, the film allows us to analyze the effects of those actions, decisions and values in a socio-moral context [15]. As a result, Students become more involved in their learning process and think carefully about the answers provided by Law and legal values to real problems.

Moreover, some films or documentaries are valuable tools to contextualize the theoretical framework studied in the classroom. This way, we can achieve different objectives. First, it allows students to check if the theoretical framework responds to problems and real situations. Also, it shows that despite the enormous capacity of law to provide solutions to real problems, in some circumstances the law has its own limits. We call these cases, “Limit Situations” or “Grays Areas”. We try to lead students to those situations several times along the course, and ask them for solutions and opinions.

We have used this technique in administrative law II. In this case, we select a topic of the syllabus, i.e., utilities regulations. We also select a documentary film that allows us to compare the effects of those regulations in real life. In this case we use “Enron: The Smartest Guy in the Room”. To implement this activity, first we explain the theoretical framework, rationale, assumptions and expected results for the utilities regulatory model. Secondly, we project to the class a few extracts of the documentary that questioned the application of the utility regulations in real life, especially highlighting problems and deficiencies. Finally we conclude the activity with a guided group discussion to enable them to confront the theoretical content and practical implementation.
We have also used this technique in the course on Environmental law. However, we change the method and implementation. In this case, we selected extracts of documentaries, films and even news and information programs, which suggest problems related to some topics of the course. Afterwards, we explain the current regulation of those topics. Finally, we concluded the class session discussing whether the Law is giving an adequate answer to those problems or whether it is necessary to improve the existing regulations. As a practical example, we have used this methodology to explain the regulation and problems of environmental liability. Also, to explain the regulation and ethical problems of Genetically Modified Organisms. In both cases, we chose excerpts from the documentary “The World According to Monsanto”. In other cases, we have used material from News Channels or propaganda videos prepared by environmental NGOs, i.e. Greenpeace. E.g. when we try to explain the problems of democratic decision-making in environmental authorizations and licences. Also, to address the problems with Management of spent nuclear fuel and radioactive waste storage.

We have not yet implemented formal quantitative tools to measure the impact and utility of this methodology. However, informal and spontaneous feedbacks by students enable us to anticipate that this methodology achieves the objectives we propose. However, we are designing those quantitative tools that we will implement by the end of the course.

B. Case-studies

Case-studies methodology is used in both Private International Law (PIL) and Administrative Law courses. These case-studies aim to highlight the limits of Law to confront complex realities in a changing social environment. In this fashion, we want students to confront the knowledge they have gained during their studies with real situations, so that they can be critical and reflective.

Assessment in PIL consists of case-studies. Over a third of our course is devoted to solving case-studies. Firstly we propose a short case at the end of each lecture (no more than 50 words). This exercise is about the topic of the lecture and the students have between five and ten minutes to solve it. They can use the statutes and the notes taken during the lecture. In the last three minutes of the class, the professor asks someone to explain the solution and if it is necessary the lecturer corrects the answer. This activity has important advantages. Students are more encouraged to pay attention to the lecture in order to be able to solve the case. Moreover it is the first review of the information. Students can make sure that they have understood the explanations and they implement the theoritical knowledge in an invented but plausible case making their learning meaningful. Finally, the instructor achieves a valued feedback from the students. He can check if his perception about the clarity of his explanations matches with the student’s answers. Student participation in this activity should be graded positively.

A second kind of exercises are the case-studies that students have to resolve in groups. At the beginning of the course they form groups of four people. Each week we propose 10 cases related with the chapter we explain in the lectures. With these cases we try to cover all the controversial aspects of the topic. The estimated time per week for this activity is two hours of personal work and one hour of sharing. Two groups present the cases of the previous lesson in the two practical sessions we have each week. They summarize the relevant facts of each case and explain the solutions. If it is necessary, the lecturer completes the explanation and asks some questions to the group in order to ensure all the members worked and put in common their research. Moreover, all the groups have to hand in the exercises weekly. The assessment of this activity represents 20% of the final mark (10% depends on the presentation and 10% depends on the handed in exercises).

The third activity based on case-studies is the invention of cases by the students. After each lesson we suggest students (grouped in the same way described above) to draw up examples from real-life situations in which the theoretical information they have could be applicible. They also have to resolve these cases and explain them to their classmates. We consider that this is one of the most efficient activities to develop an active learning. Students have to identify what issues are more intricate, for which they need to understand the topic well. When students learn to formulate questions systematically, this is the evidence of critical meaningful learning [19]. This activity must take around two hours to each student plus one hour of sharing in group. Each group has to create the exercises one time in the course. 10% of the final mark comes from this activity.
C. Trial Simulations.

We use this technique with the objective that students confront the theoretical knowledge they have acquired with its application in a "real scenario" and receive immediate feedback about their learning. We have used this technique in Administrative Law II course.

We chose a theoretical topic of the syllabus, i.e Administrative Procedures and Administrative Litigation. The theoretical framework is explained along the course with lectures. Also, weekly they should work in some case-studies, using the group methodology noted above. We created 21 groups of 3 students each. To resolve the case-studies, each group should assume and defend the interests of the parties interested or involved in one of these procedures: the government, a citizen or the Administrative judge. Those Case-Studies, in fact, are interrelated and constitute a much more complex final case. This complex final case is the one we use to simulate the trial.

The activity was conducted at the end of the course. Previously, the groups that had to compete among themselves were chosen, taking into account the role that they had been playing throughout the semester. Thus, in case they had been playing the role of citizen throughout the semester, in the mock trial they had the same role. The same was done in the case of those who had played the role of the Government or judges.

The session we devoted to trial simulations was divided into seven periods of half an hour each. During each one of those periods, three groups performed the simulation of the trial, representing the same roles that they had been developing throughout the semester (citizen, Government or Judge of the Court of Administrative Litigations).

To make it more similar to a real-life experience, the whole procedure should be initiated, developed and finalized following the ways of a real administrative litigation. For this purpose they were provided with educational materials which explained both its development, and expressions used in these procedures.

Once the simulation has ended, we give them feedback. This included the way they performed, the resolution of doubts, the correction of errors in decisions and even the behaviour or manner of expression not allowed in a real situation. This methodology was repeated until all 21 groups participated.

As other techniques, informal feedback from students allows to anticipate that we achieve some of the goals we proposed.

3.2 Independent learning

The second objective is to promote independent learning by encouraging student participation in the guidance of their learning process.

According to existing literature on this topic, students will be independent learners if we achieve the following conditions: (i) they can understand what they are doing and why, in other words, they have some control over the objectives and goals of their learning process; (ii) what they are doing means something to them, that is to say, what they are doing should influence their own point or view or implicate them emotionally; (iii) they have some control over the resources, procedure and even quality of their learning process; (iv) they receive references that can be used as contrast elements to evaluate its own conducts and learning results[16].

Keeping in mind those conditions, we try to achieve the independent learning objective in a gradual way using three techniques:

A. Choosing an area of concentration

According to the current higher education literature on learner-centered teaching, Students’ motivation and performance could be improved by giving them significant input into their own education process [16]. Some empirical research on legal education supports this conclusion [17]. However the big question is this: should we share with the students the responsibility to design the course?

As other scholars [18], we answer affirmatively, but controlling the potential risks and assessing the maturity of the class [19]. We believe that this last condition will determine in most cases the extent of the student’s participation in the course design [20]. In our case they are Senior Law Students, which allows us to rely on their previous experiences with different teachers’ methodologies and ways of grading. Besides they have: (i) A very significant legal background that allows them to compare what
they are learning in our classes; (ii) Most of them are conscious on their own interests and future professional goals.

However, keeping in mind that they came from the traditional systems, we decided to extent their participation to some elements of the course design. For the time being, we allowed them to choose an area of concentration (AC). However, for future courses we plan to allow them to participate in the determination of the grading systems.

Concerning the AC we adopt different methodologies. In some cases the AC is the same for the entire class. In this case we design the core syllabus course which covers the basic competences, abilities, professional skills and goals that they should gain by the end of the course. Afterwards, we propose some topics and the class should discuss and choose those they consider to be the most interesting.

We use this methodology in the Environmental Law course (EL). EL is an elective semester-long course with a typical enrolment of 20 students of Sciences Degree (Biology and Chemical Degrees). The core syllabus consists in the study of AL from an international, EC and National perspective. This covers the major and general doctrines of the AL, skills and application of the course to real situations. This part usually takes from ten to twelve weeks of the course, so we reserve four to six weeks to the AC.

The process of deciding over the AC issues is carried out considering issues related to the intervention of the Law to protect the Environment. Also considering environmental problems related with the environment as subject of protection but the human race as well. In this way, we allow them to choose from issues that include varied areas of special interest to them such as the use of nuclear energy, the procedures of medicine’s authorization, the regulation of Genetically Modified Organisms, Food Security Regulation, the regulation of clonation procedures, Risk Regulation and even bioethical considerations that Law should consider in the regulation of Science. The decision over the common AC is proposed in a session and in the next one they should make a decision.

Beside the election of a common area, in other cases we divide the class in small groups (3-4 students) and propose them to choose a group AC. We apply this method in two different courses: Private International Law and Administrative Law. The first one is a semester-long course, the second one is a year-long course. Both are upper-level and core courses.

The structure of our course of Private international law (PIL) distinguishes a general part and a special part. The explanation of the general part usually takes 10 weeks. During that time we teach the main aspects and the specific techniques of PIL. The special part of the subject consists in the application of these tools to the different areas of private law such as family law, contract law, tort law, company law, etc. This second part is a perfect scenario to promote independent learning. It is not possible to work on all these topics in three or four weeks, so it is necessary to choose some of them.

A similar approach is taken with the Administrative Law II (AL) course. We also distinguish a general part that consists in the explanation of the typical ways the Government gets involved with and interacts with society. The special part consists of comparing those forms of state intervention in different sectors such as Energy, Telecommunications, Culture, Banking and Financial System, Public Transportation and so on.

We allow each group of students (three or four students in each group) to decide in which field they are going to specialize. In this way, they participate in classroom decisions and in the election of the contents of the course. Obviously, they can work on the topics they are more interested in. In addition, as we argue further down, stimulating the group work we also promote cooperative learning.

They can not only choose the area of concentration but also the way in which they are going into that field in depth. The professor proposes different kinds of works such as case-law analysis, a short research, creation of case-studies, etc. With the foundations they learned in the first part of the course and with the guidance of the professors they prepare the materials that they will use to explain to their classmates the topic they choose.

This activity is a very efficient method for independent learning. Students feel more challenged working in a field they like better and, maybe, in which they would like to develop their career. Moreover, as far as they have chosen it they feel more responsible for doing a good job. It is also an instrument of cooperative learning. As we mentioned before, learners have to apply their previous knowledge in this task, so they can see the interaction of the inputs, making their learning meaningful.

The estimated personal work time for this task is 10 hours.
B. Cooperative Learning

Cooperative Learning (CL) is the use of small groups so that students work together to maximize their own and each other’s learning [21]. According to CL the Students increase their role and get involved in a most direct way in their own learning process. They have not only the responsibility to learn, but the responsibility to teach their classmates. As a result this improves their autonomy [22], and contributes to an effective teaching and learning environment [23].

Some of the activities mentioned before involve cooperative learning. Such is the case in the election of the Concentration Area (CA). The design of the method requires from each group and each student a necessary input to achieve the learning objectives of the class.

In Administrative Law II course (AL), once they have chosen the CA they should study and compare it with the general part. For this purpose we propose some questions and problems. In small groups (usually three students) they should execute this task, debating and reaching a group answer. Later, each group’s answer is proposed and is subjected to the scrutiny of the entire class. Sometimes the entire class adopts similar positions to those proposed by each group. In other occasions, no consensus can be reached. A similar approach is adopted in the Environmental Law Course (EL).

The case-studies we mentioned before are other of the methods we use in AL, EL and PIL. In a first step, each group made up of four students distributes the exercises each one has to prepare. Then, each one has to explain to the members of his group what he did and afterwards the group will explain to the class the case-studies.

In both cases of CL the learning goals are shared by the group members. As a result, each student only achieves his or her individual goals if they work closely with the rest of the group. This activity reports many benefits. As scholars have pointed out, adoption of CL methods allow students to develop some of the most valuable professional skills, i.e., listening, being empathetic, negotiating and solving problems, perseverance, trust and mutual recognitions [24]. Those skills are critical for insertion of Non-EHEA students in the labour market.

C. Classroom Assessment Committee

Classroom Assessment represents a new approach to improving the quality of teaching and student’s learning. As noted by some authors, Classroom Assessment is based on some assumption about teaching and learning: “The quality of learning is directly, although not exclusively, related to the quality of teaching...”; to improve teaching effectiveness, teachers need to first make their course goal explicit and then get feedback on the extent to which students are achieving those goals; To improve learning, students need to receive focused feedback early and often; The type of assessment most likely to improve teaching and learning is conducted by teachers to address issues that apply in their own courses, rather than by administrators or outside evaluators...; Classroom Assessment can improve teaching, learning, and personal satisfaction for teachers and students”[25]. We share those assumptions.

There are many uncomplicated Classroom Assessment techniques: The Minute Paper, Teacher-Designed Feedback Forms and Classroom Assessment Quality Circles [26]. We decided to apply the last one.

As Hess has noted, a Quality Circle (QC) is a group of students who will provide ongoing feedback about effectiveness of teaching and learning along the course, involving students in a deeply way with their own learning process [27]. Moreover, QC reports others benefits. Most times, students become enthusiastic and appreciate that teachers ask for their opinion and allow them to participate in class decisions, and implement some of their suggestions. Besides, students are motivated to participate in class; provide insightful feedback to improve learning; and offer suggestions that improve the course[28].

We are implementing a QC in two courses: Administrative Law II and Environmental Law. We also adopt the methodology proposed by some authors with little changes [29]. We also adopt the form of Student Advisory Team (SAT) as authors like Hess proposed [30].
The operation of our SAT’s is as follows. At the beginning of each semester we inform about the purposes of the SAT. In some cases, as in Administrative Law II, we directly approach individual students asking them to participate. In other cases, as in Environmental Law, we ask for volunteers.

The number of SAT members varies according to the number of enrolled students. So, in Administrative Law, with a typical enrolment of 60-65 students, we selected 5 or 6 SAT members. In contrast, Environmental Law, with an enrolment of 20 students, we formed the SAT with 2 or 3 members.

Once the SAT is formed, we call a meeting with the SAT members. During this meeting we explain their roles as SAT members, and encourage them to feel free to express all their opinions related to the course. Later, in the next class we encourage all students to participate by giving feedback about learning improvement to SAT members.

Along the course we meet with SAT members once a month. At those meetings, we encourage them to provide feedback about their learning, teaching methods and class atmosphere. In some cases, we also discuss with them the evaluation system we adopt at the beginning in the course. Our role in these meetings consists in listening student's feedback. After we adjourn the meeting, we decide which of those students' suggestions are suitable and should be implemented. Those suggestions are explained in the next class session. We inform the entire class that course improvement comes from SAT. We also explain, if it is considered necessary, those suggestions that we are not able to implement. We are very careful in explaining why we are not putting in practice others.

References


[9] Id.


[19] Id. p. 367. Some of the potential risks are pointed out by Hess, Gerald F., “Collaborative Course design: Not My Course, Not Their Course, but Our Course”, *Washburn Law Journal*, Vol. 47(2), Winter 2008, p. 377. These risks range from students’ perception that the design of the course is the professor’s job to other students that may be uncomfortable with the idea that syllabus and grading is open to continuous negotiation through out the course.

[20] We assume that senior students and more able to participate in some issues of the course design (i.e. grading) than freshman students. However as we just pointed out, the decision over the extention of the participation mainly depends on the maturity of the class.


[27] Id.

[28] Id. p. 351-352.

[29] Id. p. 351.

[30] Id. see 352 so on.