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Teaching Constitutional Comparison Changing the Culture of Legal Education

Konrad Lachmayer

I. The Impact of Globalization in Constitutional Legal Education

1. Introduction

The globalization of constitutional law can be observed in many ways.¹ The international influence on constitution-making,² the international

¹ See e.g. Jan Klabbers, Anne Peters and Geir Ulfstein, *The Constitutionalization of International Law* (OUP, Oxford 2009); Erika de Wet, 'The International Constitutional Order' (2006) 55 *International & Comparative Law Quarterly* 51-76; Konrad Lachmayer, 'The International Constitutional Law Approach' (2007) 1 *Vienna Online Journal on International Constitutional Law* 91-99; Jeffrey L Dunoff and Joel P Trachtman (eds.), *Ruling the World?* (2009); Sujit Choudhry (ed), *The Migration of Constitutional Ideas* (CUP, Cambridge 2006); Vicki C Jackson, *Constitutional Engagement in a Transnational Era* (OUP, New York 2010); Gábor Halmai, 'The use of foreign law in constitutional interpretation, in Michel Rosenfeld and András Sajó (eds.), *The Oxford Oxford Handbook of Comparative Constitutional Law* (OUP, Oxford 2012) 1328-48; Wen-Chen Chang & Jiunn-Rong Yeh, 'Internationalization of Constitutional Law', in Michel Rosenfeld and András Sajó (eds.), *The Oxford Oxford Handbook of Comparative Constitutional Law* (OUP, Oxford 2012) 1165-84; Erika de Wet, 'The Constitutionalization of Public International Law', in in Michel Rosenfeld and András Sajó (eds.), *The Oxford Oxford Handbook of Comparative Constitutional Law* (OUP, Oxford 2012) 1209-30; Tania Groppi and Marie-Claire Ponthoreau (eds.), *The Use of Foreign Precedents by Constitutional Judges* (Hart Publishing, Oxford 2013); Thomas Fleiner and Cheryl Saunders, 'Constitutions embedded in different legal systems', in Mark Tushnet, Thomas Fleiner and Cheryl Saunders (eds.), *Routledge Handbook of Constitutional Law* (Routledge, Abingdon 2013) 21-32; Anne Peters and Ulrich K Preuss, 'International relations and international law, in Mark Tushnet, Thomas Fleiner and Cheryl Saunders (eds.), *Routledge Handbook of Constitutional Law* (Routledge, Abingdon 2013) 33-44; Anna Gamper, *Regeln der Verfassungsinterpretation*, Springer Vienna 2012).

² See Helen Irving, 'Drafting, design and gender', in Rosalind Dixon and Tom Ginsburg (eds.), *Comparative Constitutional Law* (Edward Elgar, Cheltenham 2012) 19-37; Justin Blount, 'Participation in constitutional design', in Rosalind Dixon and Tom Ginsburg (eds.), *Comparative Constitutional Law* (Edward Elgar,

protection of human rights,³ global rule of law standards⁴, the judicial dialogue on constitutional matters⁵ are just some examples. The scholarly debate on the constitutionalization of international law⁶ and the internationalization of constitutional law⁷ tries to define the ongoing processes of globalization of law and governance.⁸

Cheltenham 2012) 38-56; Ruti Teitel, 'Transitional justice and the transformation of constitutionalism', Rosalind Dixon and Tom Ginsburg (eds.), *Comparative Constitutional Law* (Edward Elgar, Cheltenham 2012) 57-76; Zaid Al-Ali, 'Constitutional drafting and external influence', in Rosalind Dixon and Tom Ginsburg (eds.), *Comparative Constitutional Law* (Edward Elgar, Cheltenham 2012) 77-95; Tom Ginsburg (ed.), *Comparative Constitutional Design* (CUP, Cambridge 2012); Claude Klein / András Sajó, 'Constitution-Making: Process and Substance', in Michel Rosenfeld and András Sajó (eds.), *The Oxford Oxford Handbook of Comparative Constitutional Law* (OUP, Oxford 2012) 419-41; Hirschl, 'The "Design Sciences" and Constitutional "Success"' (2009) 87 *Texas Law Review* 1339-74.

- ³ See Dinah Shelton (ed.), *The Oxford Handbook of International Human Rights Law* (OUP, Oxford forthcoming).
- ⁴ See André Nollkaemper, 'The Internationalized Rule of Law', (2009) 1 *Hague Journal on the Rule of Law* 74-78; Simon Chesterman, 'I'll Take Manhattan': The International Rule of Law and the United Nations Security Council', (2009) 1 *Hague Journal on the Rule of Law* 67-73; Antje Wiener et al, 'Global constitutionalism: Human rights, democracy and the rule of law', (2012) 1 *Global Constitutionalism* 1-15.
- ⁵ See Tania Groppi and Marie-Claire Ponthoreau (eds.), *The Use of Foreign Precedents by Constitutional Judges* (Hart Publishing, Oxford 2013); Sujit Choudhry (ed), *The Migration of Constitutional Ideas* (CUP, Cambridge 2006); Anna Gamper, 'On the Justiciability and Persuasiveness of Constitutional Comparison in Constitutional Adjudication', (2009) 3 *Vienna Journal on International Constitutional Law* 150-169.
- ⁶ Erika de Wet, 'The Constitutionalization of Public International Law', in Michel Rosenfeld and András Sajó (eds.), *The Oxford Oxford Handbook of Comparative Constitutional Law* (OUP, Oxford 2012) 1209-30; Jan Klabbers, Anne Peters and Geir Ulfstein, *The Constitutionalization of International Law* (OUP, Oxford 2009); Erika de Wet, 'The International Constitutional Order' (2006) 55 *International & Comparative Law Quarterly* 51-76.
- ⁷ Wen-Chen Chang & Jiunn-Rong Yeh, 'Internationalization of Constitutional Law', in Michel Rosenfeld and András Sajó (eds.), *The Oxford Oxford Handbook of Comparative Constitutional Law* (OUP, Oxford 2012) 1165-84.
- ⁸ Nico Krisch, 'Global Administrative Law and the Constitutional Ambition', in Martin Loughlin and Petra Dobner (eds.), *The Twilight of Constitutionalism?*, (OUP, Oxford 2010) 245- 266; Nico Krisch, 'Introduction: Global Governance and Global Administrative Law in the International Legal Order', (2006) 17 *Eu-*

The analysis of constitutional law focused for a long time on the state.⁹ The constitution unifies the sovereign, the people, the state, the nation and the law.¹⁰ The political context of the constitution was the state, the paradigm of the analysis unification. The comparative look abroad referred to the historical dimension of constitutional law, the development of constitutional theory or the open-minded approach to learn about other constitutions or one's own constitution. The traditional approach was based on constitutional identity¹¹ with one's own state, one's own legal system, one's own history and one's own culture.¹² Legal education builds upon this perspective towards constitutional law. If somebody wants to understand another legal order, it is necessary to learn about one's own legal order first.¹³

2. International students

The impact of globalization on constitutional legal education cannot be denied. The starting point of such an analysis is the student herself. Globalization leads to an increasing diversity of the personal and cultural background of the students. A certain percentage of students already study law abroad. However, even if students are studying in their home town, their family, their friends or their social environment might have international or intercultural biographies or experiences. Special legal programmes like international LL.M. studies build on this international atmosphere

ropean Journal of International Law 1-13; Sabino Cassese, 'Administrative Law without the State? The Challenge of Global Regulation', (2005) 37 *New York University Journal of International Law and Politics* 663-94

⁹ See Martin Loughlin, *The Idea of Public Law* (OUP, Oxford 2003).

¹⁰ See Martin Loughlin, *Foundations of Public Law* (OUP, Oxford 2010).

¹¹ See Michel Rosenfeld, *The Identity of the Constitutional Subject: Selfhood, Citizenship, Culture, and Community* (Routledge, Abingdon 2010).

¹² In a traditional approach the global perspective was developed through constitutional theory see András Sajó, *Limiting Government* (CEU Press, Budapest 1999) or in its cosmopolitan version Thomas Fleiner and Lidija R. Basta-Fleiner, *Constitutional Democracy in a Multicultural and Globalised World* (Springer Publishing, Berlin Heidelberg 2009).

¹³ But see Jaakko Husa, 'Turning the Curriculum Upside Down: Comparative Law as an Educational Tool for Constructing Pluralistic Legal Mind', (2009) 10 *German Law Journal* 913-28.

of constitutional studies. The diversity of legal education starts with the diversity of their students.¹⁴

3. International teachers

The diversity of the students is supplemented by an increasing diversity of the teachers in constitutional law. The personal and cultural background of the teacher leads to differing ways of legal education. The cultural and personal backgrounds matter.¹⁵ The path toward becoming a teacher of constitutional law reflects the academic career of young scholars. The qualification of young scholars demands more and more international education, international research stays abroad and international publications. Even in constitutional research, the internationalization of research is gaining more importance. This leads – at least to a certain extent and in certain countries – to an increasing openness to accept foreign scholars as teachers for constitutional law.¹⁶ The switch of the teaching language, especially to provide more courses in English, supports such dynamics.

4. Globalizing Legal Education

Finally and most importantly, the contents of constitutional law itself are becoming more and more international in many ways. On the one hand, national case law creates more international links because of globalization;¹⁷ on the other hand, international case law of international courts becomes more relevant for national cases.¹⁸ National constitutions have to deal with international and transnational questions and are in their

¹⁴ See Karoline Iber and Birgit Virtbauer (eds.), *Diversity Management* (Vienna University Press, Göttingen 2008).

¹⁵ *Susanne Baer*, 'Verfassungsvergleichung und reflexive Methode: Interkulturelle und intersubjektive Kompetenz', (2004) 64 *Heidelberg Journal of International Law* 735-758.

¹⁶ This increasing openness still depends on the overall openness to foreign teachers in legal education. The German concept is very rigid and the British concept is very open. However, the overall tendency is the same in both countries.

¹⁷ See Cheryl Saunders, 'The Use and Misuse of Comparative Constitutional Law', (2006) 13 *Indiana Journal of Global Legal Studies* 37-76.

¹⁸ See Niels Petersen, 'Lawmaking by the International Court of Justice – Factors of Success', (2011) 12 *German Law Journal* 1295-1316.

own history influenced by other constitutions.¹⁹ The intensity of international legal and factual links, which are relevant for national constitutional law, demands a view abroad in constitutional legal education as well as the debates on the constitutionalization of international law.²⁰ The concept of constitutional law and its links to the nation state are at stake. The presumptions of constitutional law and its context of political theory are changing. Legal education has to respond to these challenges and to prepare students for the legal developments which get relevant in legal practice.

In conclusion, the impacts of globalization on the legal education are various.²¹ Constitutional law seemed maybe to be the last stronghold of domestic legal education. The developments of the last twenty-five years and the various ways of legal globalization affect constitutional law and the way it must be taught.²² The students, who are learning constitutional law, and the lecturers, who are teaching constitutional law, as well as the contents of constitutional law are becoming increasingly international. Even the concept of constitutional law has to be reconsidered in the light of the current developments.²³

II. Learning by Doing – The NICLAS Summer School Experience

1. Introduction

The NICLAS Summer School²⁴ was established to address these developments of International Constitutional Law and dealt with the im-

¹⁹ See Chris Thornhill, *A Sociology of Constitutions. Constitutions and State Legitimacy in Historical-Sociological Perspective* (CUP, Cambridge 2011).

²⁰ Erika de Wet, 'The Constitutionalization of Public International Law', in Michel Rosenfeld and András Sajó (eds.), *The Oxford Handbook of Comparative Constitutional Law* (OUP, Oxford 2012) 1209-30; Jan Klabbers, Anne Peters and Geir Ulfstein, *The Constitutionalization of International Law* (OUP, Oxford 2009); Erika de Wet, 'The International Constitutional Order' (2006) 55 *International & Comparative Law Quarterly* 51-76.

²¹ Larry Bakken, 'AALS Panel – Global Legal Education – Can American Law Schools Respond to the Opportunities?', (2004) 5 *German Law Journal* 335-338.

²² Harry W. Arthurs, 'Law and Learning in an Era of Globalization', (2009) 10 *German Law Journal* 629-40.

²³ Gunther Teubner, *Constitutional fragments: Societal Constitutionalism and Globalization* (OUP, Oxford 2012).

²⁴ www.internationalconstitutionallaw.net.

pact of globalization in legal education.²⁵ The internationalization of law was an integral part of the summer school from a formal and a substantive perspective.²⁶

From the overall concept the NICLAS Summer School, which took place from 2007-2012, appeared as an international law summer school as can be found all over the world.²⁷ Students from all over Europe participated and the teachers also came from all over Europe to discuss the developments of international constitutional law with the students.²⁸ The summer school lasted for two weeks each year and unified lectures, workshops and study visits. So far, so good.

The concrete concept, however, made the summer school special in every part and considered the specific conditions of international legal education.²⁹ The particular approach of the summer school was only made possible by the financial support of the Lifelong Learning-Programme of the European Union.³⁰ The EU did not only finance one to two teachers but also four to six students from each partner university. The students did not have to pay for the summer school, but received travel costs and accommodation reimbursed by the summer school organization. Thus, the summer school needed an application procedure to choose a

²⁵ Jürgen Busch, Konrad Lachmayer, Joachim Stern, 'The NICLAS Study Module: International Constitutional Law as Innovation in Higher Legal Education', in: Diplomatic Academy of Vienna (ed.), *Can the United Nations be Taught?* (Diplomatic Academy of Vienna, Vienna 2009) 96-100.

²⁶ From a formal perspective the summer school was organized as EU funded cooperation of 10 European universities. From a substantial perspective the summer school was based on an international constitutional law approach see Konrad Lachmayer, 'The International Constitutional Law Approach' (2007) 1 *Vienna Online Journal on International Constitutional Law* 91-99.

²⁷ See e.g. the Academy of European Law Summer School at the European University Institute in Florence or the Advanced European Union Legal Practice, Summer University of the Central European University Budapest. With both Summer Schools, the Faculty is international and the students come from various countries.

²⁸ See Erika de Wet, 'The International Constitutional Order' (2006) 55 *International & Comparative Law Quarterly* 51-76; Jan Klabbbers, Anne Peters and Geir Ulfstein, *The Constitutionalization of International Law* (OUP, Oxford 2009); Anne Peters, 'Supremacy Lost: International Law Meets Domestic Constitutional Law', (2009) 3 *Vienna Online Journal on International Constitutional Law* 170-198.

²⁹ See chapter IV.

³⁰ See ec.europa.eu/education/lifelong-learning-programme.

small number of excellent students from each partner university for the summer school.³¹

2. The formal concept

The Summer School had between six and thirteen partner universities in Europe through the years, including Humboldt University, Université Paris I – Panthéon-Sorbonne, Queen Mary London, Central European University Budapest, , Kültür University Istanbul, University Libre Brussels, Masaryk University Brno, Pan-European University Bratislava and the European University Institute Florence. The cooperation of different universities creates a network of teacher and students. The internationalization of constitutional law makes it necessary to bring teacher and students from different universities to exchange their constitutional knowledge, culture and perspectives.

The University of Vienna had the overall organizational responsibility and hosted the summer school for the first three years. In the following three years the summer school changed host and took place at Central European University in Budapest in the year 2010, at the European University Institute in Florence in 2011 and at Pan-European University in Bratislava in 2012. The change of the hosting institution already took the internationalization of law into consideration. Legal education is not bound to a certain place anymore but the same approach can and shall be realized at different places. The different hosting institutions create different learning environments. Each city, each university, each university building gave the summer school further options for encompassing the summer school programme. The study visits³² and the teaching staff at

³¹ See <http://www.internationalconstitutionallaw.net/summerschool>.

³² In the year 2010 NICLAS Summer School focused on environmental issues and took place at CEU in Budapest. The programme of the summer school included an excursion to the Gabčíkovo–Nagymaros Dams, a controversial hydroelectric power plant because of its environmental implication. The transnational Slovakian-Hungarian project moreover exemplifies the perspective of environmental and legal issues beyond borders. In the year 2011 NICLAS Summer School took place at the EUI in Florence and dealt with question on migration. A study visit led to the Chinese community in Prato. Again, the students had the possibility to experience the transnational perspective of migration personally. Finally, in the year 2012 NICLAS Summer School was held at PEU in Bratislava and the topic was “minorities”. A study visit to Roma Rights Center in Budapest and a study visit

the local hosting faculty especially had an important impact on the summer school. The specialized topic of each summer school also referred to this particular learning environment of the students.

The different teachers from the partner universities did not only bring with them their particular personal knowledge but also the specific legal perspective and culture of the different countries. The same knowledge on international constitutional law always referred in the teaching to certain domestic constitutional law as well as the application of international law in the domestic legal system and the perception of international law in general. Thus, different teachers from different legal systems are able to present and discuss the same constitutional knowledge differently.

Even more important were the different legal, cultural and personal backgrounds of the students, which in many cases did not only present their partner university countries, but also include Erasmus students from partner university coming again from different countries.³³ Thus, although there were “only” 12 partner universities, the 50 students of the summer school often represented 20 legal systems. The exchange of constitutional knowledge between the students was in an integral part of the summer school.³⁴

As a preparation for the summer school, the students did not only receive a reader – as it is quite common in international summer schools – but they had to prepare a certain case study with the other students in their home university in the spring term before the summer school started.³⁵ The same case study was also prepared by three other teams at other partner universities in other countries.³⁶ The result was the analysis of the

to the EU Fundamental Rights Agency in Vienna made it possible to understand the international dimension of minorities. See www.internationalconstitutional-law.net/summerschool.

³³ E.g. a student from the English partner university originally came from Poland; another student from the french partner university originally came from Brazil and so on.

³⁴ The students explained the legal, cultural and political situation of their own countries. The exchange was not limited to the official courses but continued as a common accommodation was organized for all students.

³⁵ See as an example Adriana Bessa, Costica Dumbrava, Vera Pavlou and Marion Guerrero, ‘Linguistic minority rights: a comparative study of Italy, Hungary, Luxembourg and South Africa’, in this book.

³⁶ The idea behind this concept was to show how different legal orders shape the mind and the argumentation in the same case law.

same case law from different perspectives and different legal systems and cultures. Moreover, the analysis of the case studies was commented upon by a team from another partner university.³⁷ The case studies and the comments from all partner university were available for all teachers and students on a web-based platform in the internet.³⁸ Finally, these case studies were presented at the summer school and discussed with all students of the summer school.

This approach did not only enable the students to engage with the topic of the summer school in advance but also to create a comparative perspective by a confrontation of the different legal approaches to constitutional law in different countries. Legal education in a globalized approach of law has to adopt formal concepts to bring different constitutional knowledge and legal culture together. The possibilities of web-based technologies enable the students to work and learn together although they are not at the same place and are not meeting at the same time.³⁹ The joint and final discussion of the summer school collected the different web-based contents and made a deeper and more sophisticated discussion possible.

3. Substantive Concepts

The substantive concept of the summer school had two layers. The first layer referred to International Constitutional Law in a general per-

³⁷ Thus, the Slovakian team commented on the French case study. The French team commented on the Lithuanian case study. The Lithuanian team commented on the German case study and so on.

³⁸ The explanation of the eLearning Platform for the students was the following: "NICLAS uses the elearning platform OLAT (Online Learning and Training), part of the VICAJOP e-learning platform, an e-learning solution especially designed for joint degree- and joint teaching modul-projects at the University of Vienna (<https://olat.ned.univie.ac.at/olat/dmz/>). It also hosts the NICLAS Online Course Catalogue, where detailed information on each of the teaching sessions of the current (and past) summer school programmes is available. Students will profit from a blended learning approach while participating in the preparation and main summer session actively. Next to the NICLAS eCourse for the case study preparation, it contains the reading materials, the participants' profile and an online course description for the individual units of the NICLAS summer school programme." (see http://www.internationalconstitutionallaw.net/niclas_2011_archive).

³⁹ See Antoinette Muntjewerff, 'ICT in Legal Education', (2009) 10 *German Law Journal* 669-716.

spective.⁴⁰ The questions of human rights, democracy, and governance⁴¹ were discussed in a multi-level approach, including constitutional law on a national, supranational (=European) and international level.⁴² Only the teachers and students from different countries made it possible to analyse international constitutional law as a network, interrelating different national, supra- and international constitutions. The comparative approach to interrelate the different levels of constitutional law and the constitutions from different countries was an imminent part of the summer school. This approach considered the impact of globalization of constitutional law. Only the international setting of the summer school created the possibility to analyse and discuss the international networks of constitutional law properly. Legal education in a globalized world has to create such learning frameworks to enable students to understand law in its comparative and international perspective.

The second layer of the contents introduced different topics in the different years of the summer school, including freedom, security, environmental, migration or minorities.⁴³ The concrete examples for international constitutional law gave the students the opportunity to understand international constitutional law not only in its abstract dimensions but also in a certain and practically relevant context. At the end of each year, the topic of next year was already integrated in the program of the summer school to link the topics from one year to another through the time.

⁴⁰ See Konrad Lachmayer, 'The International Constitutional Law Approach' (2007) 1 *Vienna Online Journal on International Constitutional Law* 91-99.

⁴¹ See the contributions in this book, e.g. Hannes Rathke, 'Needs go that the devil drives. The rule of law and the Economic and Monetary Union in times of financial crisis'; Gavin Sutter, 'Free Speech and Fact: English Libel Law, and the Limits of Free Speech'.

⁴² <http://www.internationalconstitutionallaw.net/summerschool>.

⁴³ See the contributions in this book, with regard to environment Christian Joerges, 'The timeliness of direct democracy in the EU – and the contest over atomic energy in conflicts-law perspectives'; Freya Baetens, 'Escaping Darwin's Nightmare: Development, Implementation and Enforcement of Legal Strategies to Maintain Biodiversity'; with regard to migration Costica Dumbrava, Nationality, 'Ethno-cultural Preferentialism, and Public International Law'; Jelena Dzankic, 'Citizenship in the times of conflict: an example from the Yugoslav experience'; with regard to minorities Adriana Bessa, Costica Dumbrava, Vera Pavlou and Marion Guerrero, 'Linguistic minority rights: a comparative study of Italy, Hungary, Luxembourg and South Africa'; Susanne Wurm, 'Minorities in the Danube Region. Cultural, Ethnic-Linguistic & Religious Minorities'.

Moreover, the best students of one year were invited to participate as teachers in a case study or workshop next year.⁴⁴ This enabled knowledge transfer through the years and gave the students the possibility to advance in their academic career.

4. NICLAS Summer School and Beyond

The NICLAS Summer School was taught only in English. There were actually some debates to create a multiple language environment, teaching for example in French, German and English. However, the inevitable reduction of students, who would be able to participate in such a multi-lingual summer school, lead to the decision to use English as the common basis for all the different legal approaches to constitutional law from the various domestic cultures. Moreover, students always had the possibility in their spare time to exchange in any common language that they were able to speak.

In conclusion, the NICLAS Summer School responded from its formal and substantive concept to the impacts of globalization to legal education, especially to the education of constitutional comparison. The international framework of the summer school made it possible for the students to see different legal cultures, constitutional laws and theoretical preconditions. NICLAS also integrated interdisciplinary approaches, considering political, economic and historical perspectives. The summer school can also serve as an example of how to integrate international perspectives into the domestic education of constitutional law.

It is obvious that the financial resources, the personal setting, the organizational framework and the substantive approach of an international summer school is not reflecting the regular conditions of a domestic constitutional law course which focuses on national law. However, the NICLAS Summer School offers a lot of elements which can be integrated by teachers in any course, e.g. an evaluation of the cultural and personal background of the students participating in a course. The diversity of students and their knowledge on other countries, societies and cultures can open up the discussion on constitutional law beyond the nation state. Another possibility is a team-work by the students to try to make contact

⁴⁴ These students were already writing a Ph.D. and made it possible to gain their own teaching experience.

with other law students from other countries, to figure out certain approaches or legal cultures with regard to concrete legal questions. The inclusion of comparative and international approaches in legal education is possible in every setting of legal education. This is a lesson, which can be learned from the NICLAS summer school.

III. Legal Didactics and Legal Research

1. Introduction

The NICLAS Summer School gives an example for the overall challenge to deal with the internationalization of constitutional law in legal education. The Summer School was an inductive project to develop strategies to transform the internationalization of constitutional law and constitutional comparison in a format of legal education. From the general perspective of legal education and legal didactics it is also possible to think deductively about strategies and course designs, how to consider and implement international constitutional law into legal education.

Legal didactics are based on the main approaches of university didactic.⁴⁵ This includes e.g. student-orientation, focus on skills and competences, which students should learn, interdisciplinary approaches, problem- and case-based learning as well as research-oriented teaching.⁴⁶

2. Student-oriented Teaching

Student-orientation in legal didactics refers to the focus on the student and not on the teacher in legal education. It focuses on if one can answer the question, how the student learns comparative knowledge, can deal with the question, how comparative knowledge shall be taught by the lecturer. The consideration of the student's knowledge is indispensable if international students are involved. The teacher has to consider not only the language barrier but also the different cultural, educational and legal preconditions of the students. Comparative knowledge requires a deep

⁴⁵ See Jörn Griebel and Florian Gröblichhoff, *Von der juristischen Lehre. Erfahrungen und Denkanstöße* (Nomos, Baden-Baden 2012).

⁴⁶ See Judith Brockmann, Jan-Hendrik Dietrich and Arne Pilniok, *Methoden des Lernens in der Rechtswissenschaft. Forschungsorientiert, problembasiert und fallbezogen* (Nomos, Baden-Baden 2012).

understanding of different legal systems, which the students do not have, when the start to involve themselves in constitutional comparison. The teacher has to use her constitutional knowledge of her own legal system and the theoretical knowledge on constitutional and political theory to open the comparative landscape to the students.

Student-oriented teaching does not only have to consider the way that a student can learn certain constitutional knowledge, but can also understand students as experts and information source on their own merit. If international students came together in an international legal program the teacher does not have to know all constitutional system on her own, but can use the knowledge of the students to teach constitutional comparison.⁴⁷ The students are not only knowledge recipients but also knowledge transmitters. The role of the teacher is also changing in such a perspective. She is not a lecturer anymore but much more a moderator of the exchange of constitutional knowledge between the students.

Diversity management has been a management strategy for a long time, which also has its potential for legal education,⁴⁸ especially in the field of constitutional comparison. Students do not represent a homogenous group, especially if there is international participation in the course. The size of the course does not matter in order to get relevant knowledge at the beginning of the course about the diversity of the involved students. The knowledge about the cultural, political, religious and gender diversity of a course on constitutional comparison offers the possibility to get students involved in a deeper and more personal way.⁴⁹ Constitutional comparison is based on the personal perspective on various topics and biographic experiences. It is possible to personalize the course on constitutional comparison and activate students differently, if a course on constitutional comparison is built upon diversity education.

⁴⁷ See Jennifer D Arcy Maher, 'AALS Panel – Global Legal Education – Maximizing the Internationalization of U.S. Students' Legal Education: Ideas for Making the Most of Your Resources', (2004) 5 *German Law Journal* 329-34.

⁴⁸ See Karoline Iber and Birgit Virtbauer (eds.), *Diversity Management* (Vienna University Press, Göttingen 2008).

⁴⁹ There are a lot of possibilities to get to know the diversity of students in a course. The knowledge on the diversity of a class does not implicate that the students are forced to share personal data within the group. It is possible for the students to fill an anonymous questionnaire out as well as it is possible that some students voluntarily talk about their cultural experiences.

3. Competence-oriented Learning

One of the most important insights of university didactics is competence orientation. Teaching is not as an end in itself; it serves the learning of certain knowledge, competences and skills of the students. University education does not aim at the learning of anything, but of a specific learning of knowledge, competences and skills, which reflect the objectives of the curriculum or a course (learning targets). A competence-oriented perspective on learning of constitutional comparison can formulate certain knowledge, competences and skills, which a student shall achieve by dealing with comparative constitutional knowledge.

Certainly, the instruction regarding comparative constitutional knowledge is an essential part of legal education in comparative law. The important aspect is not to force students to learn too many details but to get an overview of structures, approaches and concepts of constitutions and constitutional law.⁵⁰ Moreover, it is necessary to look into certain details, like problems, case law, etc., to show the complexity which arises from constitutional comparison.

The transfer of comparative constitutional knowledge is only one part of teaching constitutional comparison. The competences to be learned are much broader. The methodological element is crucial for constitutional comparison. The topic is much debated in the academia at the moment and especially relevant. The interrelation of different constitutional orders depends on the purpose of constitutional comparison and the approach towards the compared countries.⁵¹ It is necessary to teach theoretical and political foundations of constitutional theory. It is not possible to understand constitutional comparison without a basic idea of constitutions, constitutionalism and constitutionalization.

Constitutional comparison creates the necessity to foster certain skills of the students.⁵² This relates to a broad field of social, technical and lan-

⁵⁰ Günter Frankenberg speaks about constitutional concepts, archetypes, and architecture. See Günter Frankenberg, 'Comparing Constitutions: Ideas, Ideals and Ideology – Toward a Layered Narrative', (2006) 4 *International Journal of Constitutional Law* 439-59 (459).

⁵¹ See Jean-Philippe Derosier, 'The End Justifies the Means. The Identification of a Comparative Law Method through the Objective of the Comparison', in this book.

⁵² Lisa Rieder and Hanjo Hamann, 'Student Participation in Legal Education in Germany and Europe', (2009) 10 *German Law Journal* 1095-112, 1109

guage skills. Constitutional comparison is based on intercultural communication and dialogue between different societies.⁵³ Education in constitutional comparison shall not ignore the multiple social skills, which are necessary for a successful comparison. Beyond the social (dialogical) skills, constitutional comparison is based on various forms of research, which makes technical research skills necessary. Different countries are using different forms of databases and the multitude of information, which might be acquired in the internet, are only accessible with particular research strategies. The usage of social science methodologies, like quantitative analysis, is also linked to certain software programs. Finally, constitutional comparison also depends on language skills. This does not only refer to foreign languages but also to the insight that although different countries are using the same legal language (e.g. US, Australia, UK), the meanings and concepts of the same words need not to be the same.

Finally, constitutional comparison also refers to attitudes: constitutional comparison is based on an open-minded way of thinking and the willingness to deal with other countries, values and cultures. It presupposes a certain interest in history and philosophy as well as the belief that it makes sense to open up its perspective beyond one's own nation state.

The orientation on skills and competence of students in the comparative education sharpens the course design and increases the success of teaching constitutional comparison by restricting to and revealing the purposes of the course. Moreover, it lays the students open to the fact that constitutional comparison is a complex process which challenges the whole personality.

4. Problem- and Case-based learning

From the perspective of legal didactics, it makes sense to found the teaching of legal contents on a problem-based learning strategy. Law reflects conflicts in society, which the law governs in certain ways. Constitutional comparison does not stop at the interpretation of law and the social problems, which might be solved with legal instruments, but links legal and social developments in different countries. This interrelation be-

⁵³ Susanne Baer, 'Verfassungsvergleichung und reflexive Methode: Interkulturelle und intersubjektive Kompetenz', (2004) 64 *Heidelberg Journal of International Law* 735-758.

tween different constitutional orders demands much more contextualisation of legal developments. Nevertheless, a problem-based or case-based learning can also be integrated successfully. It shows the students concrete examples and how they might differ or correlate in different countries. Such a teaching method does not depend on the methodological position in constitutional comparison (functionalism vs. contextualism),⁵⁴ because it is always possible to prove with concrete examples that the same social problems (functionalism) exist in different countries or that the social problems of different countries are not the same (contextualism). Moreover, it is possible to exemplify the different methodological positions with concrete cases best.

Problem-based and case-based learning shall supplement a pure form of institutional comparison or a mere statistical approach to constitutional comparison. Concrete examples give students always the possibility to link abstract knowledge to certain life circumstances, which enables the students to remember comparative constitutional knowledge better. Moreover, it reflects the reality in legal practice, which is based on concrete cases or certain legal problems.

5. Interdisciplinary approach

Although the developments in humanities and social sciences to establish certain disciplines with particular methodologies are still significant, the challenges of society are more comprehensive. Constitutional comparison cannot be understood as a pure legal issue.⁵⁵ On the contrary, constitutional comparison might find its starting point in legal issues but if one starts to link different constitutions, it is not possible to limit the comparison only to legal perspectives. Comparison of law in general and

⁵⁴ See Michaels, Ralf, 'The Functional Method of Comparative Law', in Reimann, Mathias and Zimmermann, Reinhard (eds.), *The Oxford Handbook of Comparative Law*, Oxford University Press, Oxford, 2006, 339-82; Vicki C., 'Comparative Constitutional Law: Methodologies', in Rosenfeld, Michel and Sajó, Andrés (eds.), *The Oxford Handbook of Comparative Constitutional Law*, Oxford University Press, Oxford, 2012, 54-74, 62-6; Pierre Legrand, 'Foreign Law in the Third Space', (2012) *juridikum* 32-43; Günter Frankenberg, 'Comparing Constitutions: Ideas, Ideals and Ideology – Toward a Layered Narrative', (2006) 4 *International Journal of Constitutional Law* 439-59.

⁵⁵ See Otto Pfersmann, 'Le droit comparé comme interprétation et comme théorie du droit', (2001) 53 *Revue internationale de droit comparé* 275-288.

constitutions in particular has to consider the historical, political, linguistic and cultural dimensions of law.

Constitutions are deeply rooted in the history of a country and its society(ies). Constitutions are often understood as a memory of society, its struggles for constitutionalism and contain responses to historical development. Moreover, constitutional comparison can explain the linkage of different constitutions in a historical influence between different constitutions. Constitutionalism unfolds constitutional ideas all over the world through time, showing how different constitutions influence each other.

Legal matters are embedded in its application and effectivity in society. Constitutional law tends to be abstract and its application and concretizations by the legislator, the administration and the courts reflect challenges of societies. The political dimension of constitutional law as a foundation of a society and the state in its interaction is always necessary to understand the relevance of constitutional law in a society.

The linguistic dimension of constitutional law cannot be overestimated.⁵⁶ Law as a primarily linguistic concept in modern constitutional law becomes a real challenge in constitutional comparison. Constitutional comparison needs to provide translation of constitutional concept and constitutional thinking beyond the linguistic limits of certain languages. Although this means to take into account that certain losses in comprehension are part of the comparison, it is necessary to start a dialogue between different constitutional systems.

Finally, cultural elements, which are rooted in society, its approaches towards law, its understanding of the functioning of a state or its inefficiencies are also influencing constitutional law and the application of constitution in different situations. The cultural dimension might be the most diffuse but most relevant one, because it can refer to so many different elements.

Altogether, history, culture, politics, linguistic and law are very much intertwined in states and society. Constitutional comparison has to be acknowledged as a complex process which makes it necessary not only to look at constitutional law but constitutional knowledge. Legal education has, thus, to open up to insights beyond a legal perspective on constitutions, if it shall teach constitutional comparison.

⁵⁶ See Otto Pfersmann, 'Five theses about the foundations of constitutional law', in Pablo Riberi (ed.), *Foundations of Constitutional Law* (forthcoming).

6. Humboldtian Ideal

In the Humboldtian approach, research and education are linked to each other.⁵⁷ This ideal is mainly understood in legal education as a strategy of research-based learning.⁵⁸ The issues, methods and debates from research shall be implemented into education; moreover students shall be introduced to research activities in their education. This approach offers a broad field of application in constitutional comparison. The research activities in constitutional comparison developed rapidly in the last 15 years.⁵⁹ The last years show a broad variety of results and manifold debates on constitutional comparison. It is especially exciting for students to participate on topical debates on the further developments of this area of research and to get to know the latest news from research in constitutional comparison.

For students the participation in research projects is especially valuable; at least the application of their knowledge and methods on constitutional comparison would intensify their understanding. As already described above, constitutional comparison is very complex, needs interdisciplinary approaches and demands various skills and competences. The involvement in comparative research or at least the application in small comparative research projects deepens the understanding of constitutional comparison significantly.

The interaction between research and education does not describe a one way street. It is also useful to understand the potential of legal education of constitutional comparison as a source for new research in constitutional comparison. As analyzed above, students in courses of constitutional comparison already bring in their own cultural, political and personal backgrounds, especially in international courses with students from different countries. The lecturer of constitutional comparison has always the possibility to learn from her students about different countries, cultures and perspectives, which might again influence her research or moreover enable complete new research. The Humboldtian ideal as an interrelation between research and education has, thus, a particular relevance in

⁵⁷ Frank P. Albritton, 'Humboldt's Unity of Research and Teaching: Influence on the Philosophy and Development of U.S. Higher Education' (October 24, 2006). Available at SSRN: <http://ssrn.com/abstract=939811>.

⁵⁸ Burton R. Clark, 'The Modern Integration of Research Activities with Teaching and Learning', (1997) 68 *The Journal of Higher Education* 241-255.

⁵⁹ See supra 1.

constitutional comparison: in both directions from research to education and from education to research.

The different presented elements from legal didactics show the broad range of topics which can and should be considered in the legal education of constitutional comparison. There are many possibilities how legal education can learn from legal didactics in particular and university didactics in general. The increasing importance of constitutional comparison in legal education makes it necessary to focus more on the potential of legal didactics in comparative law.

IV. Constitutional Comparison and the Internationalization of Legal Education

The role of constitutional comparison in legal education is on the rise. Important textbooks on constitutional comparison have been in existence for more than 15 years.⁶⁰ Various professional chairs at universities are specialized on comparative constitutional law. Various universities offer special courses on comparative constitutional law. Specific master degree programmes are designed to give students the possibility to focus on comparative constitutional law.

The reason for these growing offers of courses and other forms of legal education regarding comparative constitutional law refers to the increasing importance of constitutional comparison in legal practice. Students are primarily attending classes which are important for their future professional fortune besides their personal interest in certain subjects. Comparative constitutional law as an important practical knowledge and constitutional comparison as a relevant practical method are gaining more and more importance in a globalizing world, where constitutional networks and legal interrelation are increasing.⁶¹ The possibilities for applying constitutional knowledge are numerous. Working for an international organization makes it necessary to delve into the details of different le-

⁶⁰ See Norman Dorsen, Michel Rosenfeld, Andás Sajó and Susanne Baer, *Comparative Constitutionalism* (2nd edn, West Publishing 2010); Vicki Jackson and Mark Tushnet, *Comparative Constitutional Law* (2nd edn, Foundation Press 2003).

⁶¹ Jirí Pribán, 'Multiple Sovereignty: On Europe's Self-Constitutionalization and Legal Self-Reference', (2010) 23 *Ratio Juris* 41–64; Nico Krisch, *Beyond Constitutionalism: The Pluralist Structure Of Postnational Law* (OUP, Oxford 2012).

gal systems and their constitutional foundations.⁶² A job in an international law firm focussing on public law will afford the willingness and competence to deal with constitutional frameworks in other countries.⁶³ Judicial dialogue even demands constitutional court judges and their scientific staff to look beyond their own constitutional thinking.⁶⁴ Inspiring the legislator as an assistant of a member of parliament,⁶⁵ applying transnational law in the administration or arguing in favour of a human rights case in an NGO are further examples of the necessity of comparative constitutional knowledge. Even in domestic courses which are focussed on the regular education of students from their own country, the relevance of comparative law in general and of comparative constitutional law in particular is gaining more and more importance.⁶⁶ Domestic legal education is becoming internationalized in its substance and topics.

Moreover, the internationalization of legal education leads to more intensive programmes in constitutional comparison. International students do not only want to focus on a particular constitution, although it might be an important one as the US constitution, but want to gain a broader constitutional knowledge. International legal education brings together students from all over the world, representing different legal systems. Constitutional comparison as part of legal education allows the integration of international students within a university course from a theoretical perspective of constitutional theory, showing the different approaches of constitutional law and culture in different countries and societies.

A comparative approach in legal education of domestic constitutional law does not only reflect the changing reality of constitutional law cases but gives also the students a broader perspective towards their own constitution. The context and possibilities of constitutional law (enriched by

⁶² See Anne Peters, 'Das Gründungsdokument internationaler Organisationen als Verfassungsvertrag', (2013) 68 *Zeitschrift für öffentliches Recht* 1-57.

⁶³ Susanne Baer, 'Verfassungsvergleichung und reflexive Methode: Interkulturelle und intersubjektive Kompetenz', (2004) 64 *Heidelberg Journal of International Law* 735-758.

⁶⁴ Vicki C Jackson, *Constitutional Engagement in a Transnational Era* (OUP, New York 2010).

⁶⁵ See Christoph Konrath, 'Parliaments and comparative law. A practitioner's view', in this book; Konrad Lachmayer, 'Verfassungsvergleichung und Gesetzgebung – System', (2013) *Journal für Rechtspolitik*, 98-109.

⁶⁶ The relevance of constitutional comparison also has to take the constitutionalization of administrative, private and criminal law into account.

examples from all over the world) creates a more precise and reflexive understanding of one's own constitution.⁶⁷ From a domestic perspective on constitutional law, the comparative approach is at least useful; from an international perspective on constitutional law, the comparative approach is an indispensable tool for legal education. From the perspective of international legal education, constitutional comparison is essential to integrate international students in domestic courses on constitutional law.

V. Internationalization of Constitutional Law and Comparative Legal Education

1. Introduction

The internationalization of constitutional law has an effect on the way constitutional law is taught. Different constitutional orders reflect different systems of legal education. The internationalization of law and the increasing relevance of comparative law also open up a discussion of methods and formats of legal education. It is necessary to develop an awareness of different kinds and styles of legal education. To understand how students from other jurisdictions were taught constitutional law, it is necessary to understand how legal education is applied in other countries. If teachers from different countries are involved in the same legal academic programme, different cultures of legal education are confronted. Finally, comparing different constitutions implies the comparison of legal thinking, which also includes the way law is taught in a country. The education of constitutional comparison presupposes the examination of comparative legal education.

The comparison of legal education is a question of educational culture of legal studies in a country. Different ways of educational traditions can be distinguished. Like the distinction between common law and civil law, educational traditions seem to differ between Anglo-American and continental European legal education. The French tradition of education can be characterized as unique. From the comparison of legal education

⁶⁷ Axel Tschentscher, 'Dialektische Rechtsvergleichung im öffentlichen Recht'. (2007) *Juristenzeitung* 807-16; Susanne Baer, 'Verfassungsvergleichung und reflexive Methode: Interkulturelle und intersubjektive Kompetenz', (2004) 64 *Heidelberg Journal of International Law* 735-758.

the question arises if constitutional comparison needs its own way of legal education, a kind of international legal education. Finally, the effects of legal education regarding constitutional comparison towards the internationalization of constitutional law have to be analysed.

2. Comparing legal education

The comparative analysis of legal education in different legal system can only be touched in this paper.⁶⁸ This is a very complex topic, which shall not be analysed deeply, but which shall be brought into the discussion of constitutional comparison and international constitutional law.

If we compare different forms of legal education the most significant difference exists between a Socratic method of legal teaching which is based on learning by answering questions⁶⁹ and the lecture without discussion, which is based on learning by hearing the relevant knowledge. Both concepts have advantages and disadvantages and represent different approaches towards legal understanding. The Socratic method focuses more on argumentation and the frontal lecture focuses on the transfer of compact knowledge. The activating of students to actively participate in the course gives much more possibilities to bring in the comparative knowledge of the students. The lecture without discussion gives the lecturer the possibility to explain complex structures in an efficient manner; however, questions are necessary that students can follow and understand the presented complexity. If students are too passive, the risk emerges,

⁶⁸ See e.g. David M. Siegel, 'The Ambivalent Role of Experiential Learning in American Legal Education and the Problem of Legal Culture', (2009) 10 *German Law Journal* 815-22; Richard Wilson, 'Western Europe: Last Holdout in the Worldwide Acceptance of Clinical Legal Education', (2009) 10 *German Law Journal* 823-846; Marie-Luce Paris and Lawrence Donnelly, 'Legal Education in Ireland: A Paradigm Shift to the Practical?', (2010) 11 *German Law Journal* 1067-92; Andreas Bückner and William A. Woodruff, 'The Bologna Process and German Legal Education: Developing Professional Competence through Clinical Experiences', (2008) 9 *German Law Journal* 575-617; Tadas Klimas, 'AALS Panel – Global Legal Education – Legal Education in the New Europe and the USA: Shall the Twain Ever Meet?', (2004) 5 *German Law Journal* 321-28.

⁶⁹ Christie A. Linskens Christie, 'What Critiques Have Been Made of the Socratic Method in Legal Education: The Socratic Method in Legal Education: Uses, Abuses and Beyond', (2010) 12 *European Journal of Law Reform* 340-355; Daniel C. Edelson, 'Learning from Cases and Questions: The Socratic Case-Based Teaching Architecture', 5 (1996) *The Journal of the Learning Sciences* 357-410.

that students are not able to follow the lecturer or that the students do not understand the comparative situation, which is full of preconditions.

The particular way of legal education also represents then the particular way of legal thinking in a constitutional order. The most prominent distinction refers to case law (common law) vs. statutes (civil law).⁷⁰ The substance which has to be communicated is different:⁷¹ if cases are the prime knowledge which has to be acquired the presentation of cases, the role of argumentation in court rooms and the communicative skills of students become important. Teaching materials are textbooks with cases and materials. In the civil law system the interpretation of statutes, the knowledge of the contents of these statutes and the analytical skills are more important. The teaching materials are textbooks with a dogmatic and systematic analysis of the content of the statutes. Legal developments in the European Union show how both systems are merging to a certain extent.

Legal education also depends on the general set-up of the university, especially the lecture halls.⁷² If a lecturer is teaching in big lecture halls with a large amount of students or in small seminar rooms with a handful of students, this affects the challenge in legal education. The quantity of students in teaching law depends on many factors, like the general concept of legal education, the size of the law faculty or the financial situation of a university. However, the possibility to create a personal involvement of each student is much more difficult in bigger classes. The possibilities of e-learning create new possibilities to design courses more interactively.

Finally the examination, the review of the taught and learned knowledge, is relevant for legal education. Only if the way of examination correlates

⁷⁰ Alexander Somek, 'The Indelible Science of Law', (2009) 7 *International Journal of Constitutional Law* 424-441.

⁷¹ The following distinction just shows the emphasis in legal education. Nevertheless, the different characteristics might be found in each system. Thus, civil law countries are also teaching case law and common law countries are also teaching basic structures and dogmatic analysis of statutes.

⁷² See the Research Project "Enabling Spaces" with regard to legal didactics http://www.lehrehoch.n.de/fileadmin/user_upload/pdf/lecturer/LehreN_Lecturer_Reader_2013.pdf (p. 18); see also Markus F. Peschl and Thomas Fundneider, "Spaces enabling game-changing and sustaining innovations: Why space matters for knowledge creation and innovation", (2009) 9 *Journal of Organisational Transformation and Social Change* (OTSC), 41-61.

to the teaching method, it is possible to take legal didactics seriously: Memorizing substantive legal knowledge or focus on argumentation have to correlate to the way students have to show their knowledge, skills and competences.

A specific debate on legal education was initiated by the Critical Legal Studies (CLS) movement.⁷³ The relationship between legal education and the preservation of power was unrevealed. The way legal education serves to stabilize the existing legal culture and thinking was critically reviewed. CLS tells us to rethink forms of legal education from the perspective of discriminatory, unequal and unjust elements, which could be avoided. It further opens up to new forms of legal education, which enables students not only to reproduce their existing understanding of law but to develop their own approaches towards law and legal thinking.

3. From Comparative Legal Education to International Legal Education

This raises the question of which form of legal education is especially suitable for constitutional comparison and if it is necessary to develop new forms of legal didactics for constitutional comparison. If a lecturer teaches constitutional comparison in a course with international students, she has first of all to take the different ways of legal education into consideration. Only if the teacher knows how students are used to be taught, can she present her own course design to the students. If students are not used to discussions in a course, it might be difficult at the beginning to motivate the students to participate actively in the course without any further consideration. Certain strategies from legal didactics, like team work at the beginning, might help the students to open up and to engage in the course on constitutional comparison. The same problems might occur the other way round. If students are used to participate actively in

⁷³ See Mark Kelman, *A Guide to Critical Legal Studies* (Harvard University Press, Cambridge 1987); Duncan Kennedy, *Legal Education and the Reproduction of Hierarchy* (NYU Press, New York 2004); Roberto M Unger, *The Critical Legal Studies Movement* (Harvard University Press, Cambridge 1983); see with regard to comparative law Günter Frankenberg, 'Critical Comparisons: Re-Thinking Comparative Law', (1985) 26 *Harvard International Law Journal* 411-455; Günter Frankenberg, 'Comparing Constitutions: Ideas, Ideals and Ideology – Toward a Layered Narrative', (2006) 4 *International Journal of Constitutional Law* 439-59.

the course and the lecture does not include discussions, the students might get irritated or bored. It might help to explain to the students why a particular teaching method was chosen and it might be necessary to reserve some time for discussion.

As described above, legal comparison in general and constitutional comparison in particular differs from regular legal education. It is based on more complex knowledge and refers to certain competences and skills. Constitutional comparison does not stop at legal interpretation and argumentation, but it demands an examination of the links and interrelations between different constitutions. It is thus necessary to think about new strategies in legal didactics to impart comparative legal knowledge. Teaching constitutional comparison implies to step up from comparing the techniques of legal education to create a unique way of teaching constitutional comparison as a form of international legal education.

Most famous kinds of international legal education, which already are common all over the world, are moot courts⁷⁴ and Model United Nations.⁷⁵ Both concepts are quite complex and ambitious in its international version. It is however possible to down-size these approaches and to use these forms of role play in a regular course on constitutional comparison. The advantage of role plays in constitutional comparison is to make the different points of view more explicit. The students experience themselves the complexity of constitutional comparison and the difficulty to bring different perspectives together.

The relevance of case law in constitutional comparison was already mentioned. It is very important to show the complexity of constitutional comparison, especially the historical, cultural, political and legal implication, not only in an abstract way but also in concrete cases. The importance of contextualisation and the reduction of complexity by comparison can only be shown within specific case law.

An important approach in constitutional comparison is team work. Constitutional Comparison always requires interaction and communication with experts or representatives of other legal systems. Social skills for structured dialogs, to find out how certain constitutional knowledge can

⁷⁴ Paula Gerber and Melissa Castan, 'Practice Meets Theory: Using Moots as a Tool to Teach Human Rights Law', (2012-2013) 62 *Journal of Legal Education* 298-310. See e.g. <http://www.ilsa.org/jessuphome>.

⁷⁵ <http://www.unausa.org/global-classrooms-model-un/model-un-conferences>.

be understood, are inevitable for constitutional comparison. Team work can range from a five minute exchange between students, who are sitting side by side, to complex research, which student teams shall carry out within a certain number of months.

Finally, constitutional comparison and international legal education question the concept that a course is only taught at one place at the same time. If the teaching of constitutional comparison is taken seriously, it would make perfect sense to start cooperation with other scholars in other countries, who are also teaching courses on constitutional comparison. Nowadays it is not complicated via internet-based platforms and e-learning tools⁷⁶ to link different courses and students from different universities in different countries. New forms and more complex forms of legal education are proportionate to image the complexity of constitutional comparison.⁷⁷

Constitutional comparison demands new ways of imparting legal and constitutional knowledge to students. Legal didactics offer various concepts, on which a new international legal education can be based upon.⁷⁸

VI. The Impact of Legal Education on the Globalization of Constitutional Law

The globalization of legal education is still – to a certain extent – an elitist project, which gives limited numbers of students the possibility to study abroad and gain comparative constitutional knowledge.⁷⁹ These possibilities to study abroad and the teaching of international lecturers or the teaching of domestic lecturers with international experience are increasing significant. The internationalization of legal education is definitely not

⁷⁶ See Brigitte Kossek and Markus F. Peschl (eds.), *Digital Turn?* (Vienna University Press, Göttingen 2012).

⁷⁷ See Obiora Chinedu Okafor and Dakas C.J. Dakas, ‘Teaching “Human Rights in Africa” Transnationally: Reflections on the Jos-Osgoode Virtual Classroom Experience’, (2009) 10 *German Law Journal* 959-68.

⁷⁸ See Jaakko Husa, ‘Turning the Curriculum Upside Down: Comparative Law as an Educational Tool for Constructing Pluralistic Legal Mind’, (2009) 10 *German Law Journal* 913-28.

⁷⁹ Simon Chesterman, ‘The Evolution of Legal Education: Internationalization, Transnationalization, Globalization’, (2009) 10 *German Law Journal* 877-888.

completed and has not yet reached its peak. On the contrary, currently the opening of domestic, protected university systems can be observed.⁸⁰ The internationalization of legal education presumes the internationalization of academics in their own legal education, research and further experiences as well as the opening of the local academic career possibilities to international lecturers.

The increasing education of students in comparative constitutional law and the international impacts on domestic law have a long-term effect on the internationalization of constitutional law itself. If students learn more about other legal systems and develop skills for intercultural dialogue and strategies to exchange constitutional knowledge globally, the competences of the students will have an effect on their own approaches in legal practice. They are much more able to consider comparative constitutional knowledge in their practical work and thus intensify the global exchange of constitutional knowledge as well as the legal relevance of constitutional comparison in their work. The judicial dialogue between different constitutional courts presumes personal contacts which might date back to joint seminars as students, presumes a certain constitutional knowledge of another country, which was gained in international postgraduate studies and so on. The on-going internationalization of legal education will in itself affect the globalization of constitutional law.

⁸⁰ Jürgen Busch and Hedwig Unger (eds.), *Rechtsfragen des Europäischen Hochschulraumes: Higher Education Integration in Europe* (facultas, Vienna 2009).