

## **The significance of comparative law in the world today** **by Raymond Youngs, 7 May 2011**

It is becoming increasingly difficult to teach law convincingly in a national context. Quite apart from supra-national law (such as European Union law and Public International law), in a world of international travel and migration, international communication and international trade, it is dangerous to be completely ignorant of the national laws of other countries.

However, even a basic working knowledge of another legal system is difficult and anything beyond this is almost impossible. It is here, therefore, that comparative law becomes invaluable. Far from being a remote academic exercise in describing the differences and similarities in legal systems which will never be harmonised, it provides the tools whereby discrete parts of other systems can be understood. The student of comparative law, instead of finding himself or herself as utterly incompetent beyond the boundaries of England and Wales as the student who has never studied law at all, will go out knowing:

1. That there are comparable sources from which law often arises and certain common features that all legal systems possess
2. That there are families or traditions of legal systems which have certain features which, when understood, enable the student to grasp other aspects of those systems
3. That there are legal materials for other systems which are accessible – sometimes in translation – which enable a more detailed understanding of those systems
4. That there are many pitfalls for the outsider in attempting to understand such details, which it is sometimes possible to avoid

It is the technique of comparing laws which gives the law student a great advantage. Studying a legal system for the first time is much harder than studying aspects of it in the light of knowledge of a different system. The differences can be as enlightening as the similarities.

There is also some common ground amongst legal systems which demonstrates the universal nature of basic legal science. The concept of general principles being concretised by court decisions; the application of a principle by analogy; the judge who refuses to decide a particular issue in a case because a judgment can be reached without it; and the developments in case law which lead to the passing of a statute are just a few examples.

No doubt in the practical world it will usually be necessary to instruct experts in other legal systems when seeking advice about their laws. But the nature and quality of such advice (and its precise implications in relation to a problem involving private international law) needs the knowledge and skills of a comparative law student.