

Intercultural Continental Paradox: ELP Course Design in Algeria

المفارقة القارية وتصميم دروس اللغة الإنجليزية القانونية في الجزائر

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Abstract:

This research aims to offer insights into the extent of the continental paradox impact on Algerian law students. This paradox results from the differences between the two legal cultures; the Continental Law adopted in Algeria and the Common Law in English-speaking countries. This is likely to cause potential self-contradictions among law students on cultural and linguistic levels giving rise to questioning the reliability of their relationship with legal English teachers inexperienced in legal background. To measure the extent of this impact, a range of tools was used in this mixed-method research such as a professional legal drama movie to watch, a questionnaire and an interview. The findings revealed that Algerian law students suffer from the continental paradox partially. Legal English teachers are then recommended to find a solution to this paradox in one of the steps of course design.

Keywords: Continental Paradox, Legal Culture, ELP, Course Design

ملخص البحث

يهدف هذا البحث إلى تقديم رؤى حول الجانب الإدراكي والثقافي لما يصطلح عليه بالمفارقة القارية الناتجة عن تمايز النظام القانوني في الجزائر والنظام القانوني في البلدان المتحدثة بالإنجليزية، إذ تؤدي هذه الأخيرة إلى تأثير محتمل على تعليمية اللغة الإنجليزية القانونية في الجزائر، في شق الإدراك الثقافي واللغوي لطلبة القانون، فضلا عن مصداقية علاقتهم البيداغوجية بأساتذة اللغة الإنجليزية الذين قد يفتقرون إلى خلفية قانونية. لقد تم ادراج جملة من الوسائل والتقنيات على غرار تقديم فيلم بوليسي واستبيانات ومقابلات في هذا البحث متعدد الطرق. لقد كشفت النتائج أن طلبة القانون الجزائريين يعانون من مفارقة قارية جزئيا من الناحيتين الثقافية واللغوية. وعلى إثر

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هذا، يوصى أساتذة اللغة الإنجليزية القانونية أن يكونوا على دراية بمفهوم المفارقة القارية وأبعادها، وإيجاد حل لهذه المعضلة في إحدى خطوات تصميم دروس اللغة الإنجليزية القانونية وذلك حسب الحالة التي يتم مواجهتها. الكلمات المفتاحية: المفارقة القارية، النظام القانوني، اللغة الإنجليزية القانونية، تصميم الدروس.



I. Introduction:

Teaching English for Legal Purposes (ELP) is likely to catch more and more researchers' attention for its complicated nature. The big challenge stems from the interrelation between legal English and the specific legal culture within the context of teaching. The 'Continental Paradox', for example, means that people in general and law students in particular belonging to the Continental Law paradoxically have false perceptions of their own source legal culture in favor of the Common Law standards, affecting many aspects of theirs such as culture-specific elements and legal locutions. Despite the attempts of ELP course designers to find solutions to the intercultural challenges to legal English teaching, rare are those studies that focus on the 'Continental Paradox' as English teachers unexperienced in legal knowledge might be unaware of this aspect. However, few studies conducted in Europe link such "an insidious process of erroneous self-enculturation" to the USA control of the widely spread legal thrillers having serious repercussions on lay people (Machura&Ulbrich, 2001) and law students (Isani, 2001, 2006, 2011). The Algerian legal system, different from that of the USA, belongs to the Continental Law largely. Then, law students are likely to be susceptible to the contradictory situation that reflects on their relationship with English teachers leading to questioning the extent of the influence of this self-contradictory perception on a three-fold parameter; the cultural, the linguistic, and the didactic. In fact, understanding how much law students are affected might help improve future practices in the field of ELP in Algerian EFL context, especially allowing ELP teachers to work on offering a remedy in one of the steps of course design according to the encountered situation.

II. Literature Review:

1. Intercultural Continental Paradox:

The 'Continental Paradox' is defined as the powerful cultural and cognitive influence of especially widespread Anglo-Saxon law-related movies on

English-as-a-Foreign-Language (EFL) students deviating their Romano-Germanic perceptions towards Anglo-Saxon standards in terms of cultural aspects and linguistic side, such as the form of address to judges, the expression used by lawyers when objecting, and the locution of oath. Such an “ersatz legal culture” is likely to be acquired via a threefold chronological cognitive process: vacuum, exposure, and then appropriation (Isani, 2011, pp. 157-159).

In the Algerian context, many reasons might bring about such a paradox. The lack of students’ requests for trainings at local courts and the absence of training offers at courts in English speaking countries (Bouhental, 2022). Then, law students are likely to be deprived of having opportunities to discover both source and target culture specifics correctly. In addition, the absence of Algerian cinematic legal-drama industry based on the Algerian legal culture as compared to the USA that control such films (Kadri, 2022). At last, the scarce studies on ELP in Algeria and the inattention to these details when teaching ELP might participate in the continuous suffering from the continental paradox.

2. World Divergent Legal Cultures:

As mentioned above, the Continental Paradox is a result of the collision of different legal cultures. Shedding light on the differences between those legal systems will offer clearer insights into the nature of such a paradox. The three main legal systems found in the world are the Common Law in most of the Commonwealth countries (and USA); the Civil Law (Continental Law) in Europe except the UK, and the Shariâa law in Muslim countries (Bhatia, 1993, p. 244). What distinguishes the ‘Common Law’ from the ‘Civil Law’, for example, is that it does not entail any codification but it is based on judicial precedents upon which judges pronounce sentences (di Carlo, 2015, p. 9).

In Algeria, the national legal system borrowed its principles from the Continental Law in the time of the French colonization. In fact, the most important aspect of Continental Law lies in the duality of the legal system where there is a separation between administrative and normal judiciaries (Bouali et al., 2014, pp. 6-10), unlike mono-judicial systems based on Common Law reasoning in English speaking countries such as the UK and the USA (Fridja, 2011, p. 18).

Such divergence of legal systems results in, regardless the linguistic side mentioned above, the dissimilarity of culture-specific institutions, such as the existence of administrative courts (administrative tribunal and *Conseil d’Etat*) in countries that follow the continental system based on the

duality explained above. Another aspect lies especially in the inquisitorial nature of the continental law and the adversarial mode of the Common law. This includes but not limited to the passive and active roles attributed to litigants (the pre-trial inquiries for the defendant in the continental law practice), members of jury, lawyers and judges before and during the trial process; and ways of getting the truth, persons under oath, etc. (Greenfield & Osborn, 1995; Pakes, 2010).

3. Continental Paradox Impact on ELP Teaching:

The Continental Paradox is part of several intercultural challenges. The dissimilarity of legal cultures entails a different teaching methodology in which the legal culture specificities should be the focus of attention. This would be better realized with applying intercultural approaches to teaching ELP for EFL law learners. (Codruta, 2013, p. 55). Another possibility is to combine characteristics of both an ELP teacher and a legal professional in one person (Balogh, 2013, p. 63) even though this seems to be uncommon. Nonetheless, the challenging phenomenon of Continental Paradox raises issues on both law learner and English teacher in ELP classes. The learners' doubtful expertise (Long, 2005, p. 20) and the teachers' lack of the specialization background (Basturkmen, 2010; Hutchinson & Waters, 1987) give rise to questioning the reliability of the learner knowledge whereon ELP practitioners may rely, especially if they prepare and introduce in-house or adapted materials. ELP teachers then ought to create a cooperative learning atmosphere wherein they may consult well-informed learners.

III. Methods:

To collect the necessary data for this mixed-method research, 45 first year and second year master law students forming the sample of the population were chosen randomly. They belong to different specialties (criminal law, property law, business law, environmental law, and administrative law) at the Department of Law at the University of Batna 1 in Algeria. This is to ensure inclusiveness as only master law students study English. In addition, an interview was conducted with two English teachers.

Then, the informants were invited to watch a movie *The Judge* (Dobkin, 2014) as an incentive reminder to elicit their background. In fact, the notion of FASPian paradox (Paradox des Fictions à Substrat Professionnel) means that legal thrillers could not be considered as typical materials of professional and specialized languages (van der Yeught, 2018). However, the movie *The Judge*, for example, contains several scenes of target legal culture aspects and specific legal locutions across 17 sequences that can be used for didactic and even research purposes.

After two students were given a pilot questionnaire to review any necessary modifications, the informants were handed the revised version to fill out. In fact, as the questions carry professional legal knowledge, they were chosen and designed carefully after a preliminary discussion with an experienced lawyer. The questionnaire contains a variety of questions in Arabic and English within four sections. The first section deals with general information. The second section deals with watching or reading the law-based thrillers in terms of type, origins, frequency, language, time etc. The third section is about the legal intercultural side of those thrillers including questions on the movie of *The Judge* that was given to watch, and the potential effect of the continental paradox. The last part is dedicated to some didactic aspects of teaching legal English.

The teachers' interview contained similar questions to the students' questionnaire in terms of the didactic aspects and the nature of their cooperation to allow for comparison and verification. It was centered on the nature of the introduced materials, the provision of the target legal culture input, the activities types, legal background inquiry, and whether or not having the intercultural input corrected. The interview was done in English and some examples of legal issues related to the national legal system were explained in Arabic to one teacher.

The data were analyzed via the Statistical Package for Social Sciences (SPSS). Some data within one section were collected in one table to facilitate the readability of the results. Furthermore, in the third section for example, the rate of the influenced students was determined as follows: From one to fifteen students (Not influenced) from sixteen to thirty students (Partially influenced), and from thirty-one to forty five students (influenced).

IV. Data Analysis:

1. Profession:

Law students were asked whether they are legal professionals or just students to measure and compare the extent of the continental paradox influence on each category. According to table 1 below, 37.8% of the respondents are pre-service students. 28.9% of them have other sorts of work outside the legal professional community. 33.3% of the informants are legal professionals distributed between police and customs officers (8.9 %), lawyers (8.9 %), judges (8.9 %), bailiffs (2.2 %), and other legal professionals (4.4 %).

Table 1
Profession

		Frequency	Percent	Valid percent	Cumulative percent
Valid	Police officer	4	8,9	8,9	8,9
	Lawyer	4	8,9	8,9	17,8
	Judge	4	8,9	8,9	26,7
	Bailiff	1	2,2	2,2	28,9
	Legal Professional	2	4,4	4,4	33,3
	Student only	17	37,8	37,8	71,1
	Other	13	28,9	28,9	100,0
	Total	45	100,0	100,0	

2. Watching or Reading Legal Thrillers in Terms of Type, Origins, Frequency, Language, and Time

The following cross-table 2 contains two axes to match. The horizontal one lists the different legal thrillers the respondents may read such as novels and short stories, or may watch such as movies, series, cartoons, documentaries, etc. On the vertical side, the table lists the origin of the legal thrillers whether Anglo-American as they are widely spread, European and Arabic as they may carry a counterpart legal culture in addition to the fact that the respondents are Arabs. It also contains the languages and frequency of reading or watching those legal thrillers from recurrence to rarity. The last element allows knowing the length of reading/watching period considering the starting time of law studies.

According to table 2 below, the majority of informants have always been watching originally Anglo-American court-drama movies in English. The respondents also showed their interest in watching series as the latter come in the second position within the same conditions. What is noticed is that a large part of informants has been watching those movies and series since a long time ago and to a less degree, before starting their law studies. The informants provided the titles of most-watched films such as *The Judge*, *Catch me if you Can*, and *The Lincoln Lawyer*; and series such as *CSI*, *Suits*, *The Blacklist*, and *How to Get Away with Murder*.

Table 2
Watching or Reading Legal Thrillers in Terms of Type, Origins, Frequency, Language, and Time

Variables	Novels/ Short stories (%)	Movies (%)	Series (%)	CRT (%)	DCMTR (%)	T- trials (%)	TH- plays (%)
Origin							
Anglo-American	17,8	66,7	28,9	11,1	17,8	15,6	2,2
European (Except the UK)	2,2	4,4	13,3	4,4	8,9	2,2	4,4
Arabic	13,3	2,2	4,4	8,9	2,2	15,6	0,0
Other	0,0	2,2	0,0	0,0	2,2	0,0	0,0
Frequency							
Always	8,9	42,2	22,2	8,9	11,1	6,7	2,2
Usually	11,1	24,4	17,8	4,4	6,7	13,3	0,0
Sometimes	11,1	13,3	11,1	8,9	13,3	8,9	4,4
Rarely	2,2	2,2	0,0	2,2	0,0	2,2	2,2
Language							
English	11,1	62,2	37,8	4,4	13,3	8,9	2,2
French	2,2	2,2	4,4	6,7	4,4	0,0	0,0
Arabic	13,3	13,3	4,4	13,3	15,6	24,4	6,7
Other	0,0	0,0	0,0	2,2	0,0	0,0	2,2
Time of reading/watching							
A long time ago	15,6	48,9	35,6	20,0	17,8	6,7	2,2
Before starting my law studies	8,9	22,2	11,1	2,2	6,7	11,1	2,2
As of starting my law studies	2,2	6,7	2,2	22,2	4,4	13,3	4,4

Note. CRT = Cartoons, DCMTR = Documentaries, T-trials = Televised trials, and TH-plays = Theatrical plays.

3. Areas of Divergence Feelings and Perceptions Change:

As figured in table 3, eleven (11) criteria on cultural aspects, professional methods and roles, and the used language were chosen to measure students' awareness of the contrastive points and the rate of their perceptions change. The criteria include six elements inside the courtroom such as judges and lawyers' roles, banging a gavel, and rituals. In addition, three elements outside the courtroom and two organizational and hierarchical ones.

The table below displays that about half of law students in the present research felt before many aspects of source and target legal systems differences; the most important of which are the police investigation methods

(60%), legal procedures (51.1%), and the hierarchy and judges' titles (48.9%). Concerning perceptions change, half of the informants considered that they had their perceptions towards their own legal system deviated in favor of the Anglo-American legal family in areas including but not limited to legal procedures (62.2%), hierarchy and titles of judges (44.4%), and police investigation (48.9%). It should be noted, however, that there are slight differences between the rates of the areas of divergence feelings and perceptions change among the respondents. For example, the second criterion (48.9% / 44.4%), the seventh criterion (22.20 % / 20 %), and the tenth criterion (35.6% / 37.8%).

Table 3

Areas of Divergence Feelings and Perceptions Change

Label	Divergence feeling	Perceptions change
Legal procedures	51.1%	62.2%
Hierarchy and titles of judges	48.9%	44.4%
Legal culture-specific and hierarchy of institutions	46.7%	33.3%
Religious based locutions	17.8%	15.6%
Rituals	2.2%	6.7%
Judge and lawyers dressing	22.2%	26.7%
Banging a gavel	22.2%	20.0%
Police Investigation	60.0%	48.9%
Court Investigation	40.0%	35.6%
Language used	35.6%	37.8%
Judges' and Lawyers' roles	42.2%	37.8%

4. Areas of Continental Paradox Influence:

As displayed in table 4 below, ten questions were collected and put as criteria to judge whether master students at the Department of Law at Batna University¹ suffer from the continental paradox. The judgement varies between (complete) influence, partial influence and no influence. The results showed that the informants' perceptions were falsified in terms of which expression lawyers use to object during the trial process. Other criteria also partially affected the respondents such as considering that the Algerian legal system has an adversarial process in court trials, thinking that the formula of swearing inside the court is similar, nay identical to that of Anglo-American customs. In addition, the informants were partially influenced by the criterion of how the judge manages the trial and the existence of the examining judge in the Anglo-Saxon/federal legal system.

Table 4
Areas of Continental Paradox Influence

Label	Influenced	Partially influenced	Not influenced
Adversarial system		x	
Expression of swearing before the judge (or, board)		x	
Form of address to the judge			x
Lawyer missions			x
Judge missions		x	
Members of jury seating		x	
Members of jury process			
Lawyers Verbal objection	x		
Investigating judge		x	
Administrative cases			x

Note. From 0,0% to 33,3%: Not influenced. From 33,4% to 66,7%: Partially influenced. From 66,8% to 100,0%: Influenced.

5. Didactic Aspects of Teaching Legal English:

Table 5 below displays that most informants (80%) declared that their English teachers did not use visual and listening activities such as films and documentaries. ELP teachers, according to law students, focus more on linguistic and translation activities. However, only the fifth respondents (20%) said that their English teachers provide them with intercultural activities, even though translation might be a useful intercultural activity.

As far as law students-ELP teachers' cooperation is concerned, the majority of respondents revealed that their English teachers do not usually consult them. They also do not ask for assistance on the subject knowledge details or the aspects of the target legal culture. Furthermore, when teachers do, most students do not correct their information and mistakes.

Table 5

Law Students' Views on the Materials and Collaboration with Teachers

Questions	Yes (%)	No (%)	I do not know (%)	Missing (%)
Introduced Materials				
Written	80,0	15,6		4,4
Visuals	0,0	100,0		
Providing Target Legal Culture Input	42,2	47,5	8,9	
Activities Type				
Linguistic	42,2	57,8		
Writing	55,6	44,4		
Intercultural	20,0	80,0		
Translation	100,0	0,0		
International	60,0	40,0		
Asking for Legal Background	24,4	64,4		11,1
Correcting Legal Culture Input	4,4	84,4		11,1

6. Teachers Interview:

According to the obtained results from the interview as shown in table 6 below, all ELP teachers (100%) at the Department of Law at Batna University¹ provide law students with written authentic materials that target legal culture along with translation activities. One teacher (50%) is already a subject specialist and he said he usually does not ask for students' cooperation in terms of legal background for he is acquainted with the specialism. The other teacher is specialized in English literature and culture. She said she sometimes asks for some details about the subject knowledge when unperceived, and law students in her class offer, or correct her information on legal culture.

Table 6

ELP Teachers' Views on the Materials and Collaboration with Law Students

Questions	Yes (%)	No (%)
Introduced Materials		
Written	100,0	0,0
Visuals	0,0	100,0
Materials Nature		
Authentic	100,0	0,0
Adapted	0,0	100,0
In-house	0,0	100,0
Providing Target Legal Culture Input	100,0	0,0
Activities Type		
Linguistic	0,0	100,0
Writing	100,0	0,0
Intercultural	0,0	100,0
Translation	100,0	0,0
International	0,0	100,0
Asking for Legal Background	50,0	50,0
Having Legal Culture Input Corrected	50,0	50,0

V. Results and Discussion:

The results revealed that the situation at the Department of Law at the University of Batna1 as to the continental paradox seems complicated for the heterogeneity of students in terms of professional experience. Post-service law students occupying legal professions such as judges tend to be immune from the continental paradox on the contrary of pre-service ones. This might be because of the experience legal professionals have and their work inside courtrooms or close-by.

What is critically important is that law students were motivated to watch American legal thrillers that carry a highly professional culture before plunging into legal studies. This means that there may be no relation between law students studying law and being motivated to watch legal thrillers. Nonetheless, they seem to have acquired the target legal culture aspects prior to their own when there was a vacuum in that they watched them for a long time. The fact that movies and series were produced in the USA and watched in English and not in other languages may lead to the interpretation that the potential errors of legal concepts, and language translated by subtitling and dubbing could be insignificant.

The students' erroneous perceptions as to the swearing locution inside the court is worthy of attention owing to the fact that only witnesses and other professionals are requested to swear before the judge in Algerian courts with a different formula as mentioned in articles 91 and 93(Penal Procedures Code, 2007). The negative points revealed that law students suffer from the continental paradox partially even though they showed a considerable awareness of divergence and perceptions change. Such similar results to Isani' previous studies on European law students, which means that all law students belonging to the Civil (Continental) Law system might have similar misleading self-contradictory perceptions with possible different degrees. However, this may be at the English teachers' service in that the law students' lack of an acceptable mastery of the target intercultural elements might make the legal English teacher-law student cooperation unreliable.

VI. Recommendations:

ELP teachers designing legal English courses should be aware of the continental paradox and have the ability to consider this problem as constituting a significant element in the complex situation of teaching. Consequently, legal English teachers need to find, or at least attempt to resolve this dilemma according to the varieties of the situation law students are suffering from, i.e. the nature of the vacuum, the exact time of having erroneous perceptions and the extent of the influence. They also need to

define the extent of the imprinted image and the effect of cultural shock whether law students may totally accept or reject the cultural otherness, or even find a way to coexistence.

ELP teachers may apply such a range of varieties in a net of parameters during the process of needs analysis, materials preparation, or evaluation to offer a remedy or correct the paradox according to the encountered situation. Some law students are undoubtedly unaware of the negative influence and act as if they are acquainted with their source legal culture. Therefore, English teachers should consider the psycho-pedagogical solutions for the potential perplexity and disappointment of law students when they realize that their perceptions were deviated.

The ELP practitioner could decrease the continental paradox effect in the presented materials no matter what their nature is; be they written, visual (movies, documentaries, televised trials, theatrical plays), or performative activities (mock trials). Legal translation between languages belonging to two different legal systems, for example, will show the students how to manage the pitfalls and allow them to check for the best equivalent, i.e. they can search and discover the target legal culture elements, such as the divergent culture-specific institutions. The ELP teacher can also use a variety of strategies, such as incorporating source legal culture elements and letting ELP students discover the target legal culture details when confronted, or blending both source and target legal culture components and helping ELP learners find out the divergent points.

Other recommendations out of the ELP teacher's scope of competence need to be implemented to boost law students' intercultural competence. These include but not limited to promoting law students training at local legal institutions and mobility towards Anglo-American countries. In addition, promoting media coverage of local trials, and encouraging cinema industry of legal thrillers that carry national legal culture. Should these proposals be realized, the continental paradox might be decreased, if not vanished.

VII. Conclusion:

The present research has aimed at offering insights with relation to the continental paradox and its potential impact on teaching ELP in Algeria, as it constitutes an EFL context and an area of divergent legal culture. The research paper has been concerned with the effect of the potential erroneous self-enculturation on the reliability of the relationship between ELP teachers and law students. It has been found that Algerian law students suffer from the continental paradox partially in areas such as imagining that the formulas of objection and swearing during a trial are identical to those of Anglo-

American standards and ignorance that the Algerian legal system is of an inquisitorial nature, not an adversarial one like in the USA. It has been recommended that ELP practitioners designing legal English courses should be aware of the continental paradox and have the ability to consider this problem as constituting a significant element in the complex situation of teaching. Consequently, they are required to find or at least attempt to resolve this dilemma in one of the steps of course design and according to the encountered situation.

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