

E-Portfolio Activity 1: What is Law? – Michael Geiger

Part 1

In his article, Conor (2019) emphasizes that law is a construct that has evolved over thousands of years, which has been formed by various development processes and is based on the human desire to define rules of cooperation, property and ethical principles in order to create framework conditions for civilizations. This human desire is based on a security requirement that violations of the developed conventions are prosecuted and enforced in order to create equality among people and to enable justice in a certain form. Laws are not rigid constructs, but are subject to constant adjustment processes, even if these developments take place slowly due to conservative attitudes. However, this also guarantees that laws represent a constant in turbulent social times, since they outlast short-lived political movements and thus provide a guarantee of social stability.

In the book *Comparative Legal Systems* by Zeno-Zencovich (2017), various legal systems in the western hemisphere are listed and their similarities as well as differences are highlighted. It can be seen that all systems show great similarities and central differences can only be traced back to democratic structures. Laws are therefore the backbone of democracies. When asked whether the approach of eliminating the conceptual distinction between legal systems can aid prevention and apprehension of cyber harm, some arguments can be found that support this approach. A uniform law simplifies the prosecution of criminal offenses and can help to facilitate the extradition of criminals to the target countries. Global agreements on ethical issues are also clarified in a uniform manner, which supports legal understanding in an international context. In principle, therefore, eliminating the

conceptual distinction between legal is a sensible approach. However, it must be borne in mind that Zeno-Zencovich also emphasizes that laws and legal texts are based on linguistic conventions. Language is a fundamental part of social constructs, which not only strengthens cultural identity, but also shapes civil coexistence. In different cultural circles and languages, meanings and their weighting can be understood and interpreted differently. This can be a problem when designing a unified legal system, especially since it cannot be developed in a single language in an international context. Cultural differences in relation to law, injustice and criminal offenses must also be taken into account. In Western countries, for example, intellectual property represents a fundamental understanding of law. A company can only assert itself through innovation, since copying what is known is not respected or even criminal. In Asian countries, there is an understanding that perfection can only be achieved by repeatedly copying what already exists, leading to the understanding that imitation is not reprehensible and in fact necessary in order to achieve perfection. It should therefore be noted that there are different legal understandings in different cultural circles. An international agreement of legal systems is therefore desirable, but not as easy to implement as it first appears.

References:

Conor, G. (2019) *What is Law*. The British Academy Blog. Available from: <https://www.thebritishacademy.ac.uk/blog/what-is-law/> [Accessed 10 August 2022].

Zeno-Zencovich V. (2017) *Comparative Legal Systems. A Short Introduction*. Roma Tre Press: Roma. Available from: https://papers-ssrn-com.uniessexlib.idm.oclc.org/sol3/papers.cfm?abstract_id=2982232 [Accessed 10 August 2022].

Part 2

As a member of the European Union, Germany follows the legal basis with regard to cyber law, which is based on the western legal system. The basis for the German cyber law is the IT-Sicherheitsgesetz 2.0, the NIS directive of the EU (THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION, 2016), as well as the national 'Grundgesetz', the 'Sozialgesetzbuch' (SGB) and the 'Strafgesetzbuch' (StGB)(Bundesministerium des Innern und für Heimat, N.D.). The GDPR is to be regarded as the central anchor for the private rights of users on the Internet.

References:

Bundesministerium des Inneren und für Heimat (N.D.) Rechtsrahmen für mehr Cyber-Sicherheit. Available from: <https://www.bmi.bund.de/DE/themen/it-und-digitalpolitik/it-und-cybersicherheit/rechtsrahmen-cybersicherheit/rechtsrahmen-cybersicherheit-node.html> [Accessed 10 August 2022].

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION (2016) Concerning measures for a high common level of security of network and information systems across the Union. Available from: <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32016L1148&from=DE> [Accessed 10 August 2022].