

CONTEXT, CRITICISM AND THEORY

Internal and external method in the study of law

R L Schwartz

11 *Law & Phil* 3, 1992 pp 179-199 *

Legal theory and legal scholarship are currently characterised by a division between traditional, doctrinal methods and approaches derived from extra-legal disciplines. This paper proposes a different though related distinction between two methods of understanding law and interpreting authoritative legal texts.

Internal method reflects the viewpoint of the participant in a legal system and traditional doctrinal study; it is practical and decision-oriented. Limitations on the range of arguments and interpretations employed are accepted in order to render its results serviceable for practical tasks.

The purposes of external method are cognitive and theoretical; it is oriented toward a comprehensive philosophical and scientific rationality. It premises and results are therefore not restricted by received professional opinion or social or institutional restraints, and may reflect the conceptual resources of extra-legal disciplines.

The paper discusses the antecedents of these methods, describes the structure of each and relations between them, and suggests that the criterion of internal method is practical effectiveness, that of external truth and falsity.

The role of Malay and English in legal education and practice of law

F T Chik

Legal Education in Malaysia- Quo Vadis? 1993 pp 103-107 *

The biggest stumbling block to the use of Malay in court proceedings is the inability of law practitioners and law administrators to express their ideas in Malay. Although the court has a discretion pursuant to the National Languages Act 1963/67 to order proceedings to be conducted partly in Malay and partly in English after considering the interests of justice, such discretion will not be exercised in a situation of a poor command of Malay on the part of the practitioner. Where a particular word does not exist in Malay or where the case laws are quoted from law reports prior to June 1990, it will be in the interests of justice to allow such parts of the proceedings to be conducted in English. The speaker emphasised the importance of

both Malay and English in the advancement of legal knowledge in Malay and said that lecturers as well as students and practitioners must attain a high level of proficiency in these languages.

The role of Bahasa Malaysia and English in legal education and the practice of law

M A Yusof

Legal Education in Malaysia - Quo Vadis? 1993, pp 117-125 *

The use of Malay in the courts has shown that it is inherently capable of, and, suitable for use as a legal language. Significant developments have been made to reinforce the movement to elevate Malay as the language of the law. The speaker was of the view that it is possible to conduct court proceedings and draft complex pleadings in Malay. The obstacle to the use of Malay lies in the lack of proficiency of the language on the part of the administrators of justice. The speaker said that Puan Maya Khemlani- David's survey was not an accurate assessment of the actual situation because her observation was solely confined to open court proceedings and did not include chamber matters.

Language and legal education in Malaysia - past and emerging trends

N R Mahmood

Legal Education in Malaysia- Quo Vadis? 1993 pp 133-146 *

The issue being faced in Malaysia at the moment is the adequacy of the Bahasa Malaysia for expressing legal ideas and concepts which are foreign. Difficulties arise as a result of the lack of legal terminology and literature in Bahasa Malaysia, although the Faculty of Law at the University of Malaya has been successful in carrying out the objectives of the Bilingual Policy. There is recently a marked deterioration in the standard of English language among students resulting in increasing difficulties in providing quality education, the polarisation of undergraduates, the marginalisation of local law graduates in the job market, and the production of students conversant in Bahasa Malaysia only. There is a need to recognise the importance of English in providing quality education and its role as an international language.

The growing disjunction between legal education and the legal profession

H T Edwards

91 *Michigan L R* 1, Oct 1992, pp 34-78

There are three aspects of the growing disjunction between legal education and the legal profession - the academy's growing interest in abstract theory and disinterest in legal doctrine as manifest in practical scholarship and legal pedagogy, the law firms' pursuit of profit above all else, and the decline in professional ethics among the private bar.

In legal scholarship there has been a clear decline in "practical" scholarship published by law professors; in legal pedagogy "impractical" scholars will often be inept in teaching doctrine; and in regard to ethical practice, law firms have forced law students to act materialistically and unprofessionally, and not in conformity with the ethics he found were taught in law schools.

The writer concludes that a remedy to the growing disjunction will involve a change in the attitudes and acts of law professors and lawyers, with congenial legal institutions facilitating these changes.

CONTINUING EDUCATION

Continuing legal education at the Malaysian Bar

C V Das

Legal Education in Malaysia- Quo Vadis? 1993 pp 153-159 *

The role of the Bar Council in CLE is not confined to ensuring that practitioners have the opportunity of sharpening their legal skills but extends also to catering to the needs of society. In this respect, the Bar Council has embarked actively upon a legal literacy program and legal aid. The speaker said that there has been a decline in the ethical standards of the profession lately and, in August 1992, the Bar Council introduced a compulsory ethics program for all pupils reading-in-chambers.

There is a joint venture with the College of Law Sydney as part of the Bar Council's CLE program whereby workshops are organised on specific topics. At present, the Bar Council is expanding its CLE and is collaborating with the National Institute for Trial Advocacy in Chicago for joint ventures similar to the College of Law. The Bar Council would like to see better co-operation with the Faculty of Law, University of Malaya especially in conducting weekend courses in selected topics.