

Legal textbooks — the reflection of socio-legal reality

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Introduction

In my research, I am attempting to employ a novel approach to legal textbooks, by treating them as the source and effects of social change. Legal textbooks are used on a daily basis by students, academics, and the legal profession—lawyers, solicitors, barristers, and also by judges. For a number of reasons, the last group of professionals is the scope and range of my research.

The judicial decision making process

Judges are considered to be highly esteemed and important representatives of the legal profession. Their decisions influence—and are being influenced by—directly and indirectly, legal textbooks and their content. Law textbooks are the source of inspiration, and might be considered as a repository of legal knowledge. Legal textbooks could also be considered as one of many platforms for professionals to discuss and engage, to a certain degree, matters which are of importance to these professionals. The textbooks might be employed for the purpose of advancement of knowledge, and might play a significant role in the unification or separation of views in a certain field in question.

In this research, I am aiming to capture change, caused, or influenced, by the content of the most significant textbooks, representing certain branches of law. I have decided to choose four distinct divisions of law for the purpose of my study, namely: constitutional law, family law, criminal law and corporate law. Every branch of law has its own specificity, and I would hope to capture each during the course of my research.

In addition, each one of these branches of law will be represented in my research by one of the most prominent legal textbook in that field; the textbook which most practitioners in that specific field of law would consider to be a corner stone for that field, and a point of consultation when in need.

In order to shed more light on the captured influence, I am going to compare the specific textbooks—and their content—published in two countries, Poland and Ireland, due to similarities and differences in the types of the legal and political systems historically

employed by both of these countries; and how these are reflected in a judicial decision-making process.

These two countries are situated in two distinct legal traditions. In short, I have selected Poland for its continental and mostly statutory law. Ireland was selected for its unique common law system. The two countries share many features in terms of the way in which the statutory laws are being enacted, specifically, in both cases, by a bicameral parliament with a president as the head of state. Moreover, the research will employ a number of methods of reading legal discourse, present and well established in the disciplines which are part of the research (law, sociology and socio-legal studies). In addition, aforementioned research addresses the issues of how to combine these methods in one coherent method.

So, why is this important?

The law is a social structure or instrument affecting us, as members of a society, and, also, it is imposed by the same society (and by its members) on every one of us, the same members of that society. But then again it is an abstract and intangible concept, and it is not so simple to say that laws came to be in this or that way.

Furthermore, there are a large number of decisions being made every year by judges. Some are of great importance to the entire legal systems where a decision is made on a point of law and of importance to the specific stakeholders; although, the majority of these decisions are mundane, everyday cases and issues that the judges will have to face.

Law and language

Law and language are at the heart of my research; these are intertwined and essential elements of the inquiry which I am making. One of the aims of my research is to gain a greater understanding of the law and its language. This is being encapsulated by the concept of bilinguism, the term infrequently used in relation to an adequate knowledge, expertise and understanding of the specific legal and social order; and which will have to be embedded in, and supported by, the knowledge of the language used in that specific jurisdiction.

Conclusion

This research is a journey, in which I am trying to make sense of all of that which is involved in producing and using legal textbooks. Of key importance to my research is, who is influencing the legal system, and especially, the judicial decision making process, and how and why? I am hoping that the findings of my research will enrich our understanding of the processes described above.

Blazej Kaucz is a PhD student in the Department of Sociology, and working under the supervision of Professor Colin Sumner, to whom the author is eternally grateful for the continuous support, advice, and for the motivation to try to achieve more with each subsequent step.