

# THE READING OF LEGAL CASES AMONG LAW STUDENTS

## ABSTRACT

*One of the foremost essential skills for law students to achieve success in their discipline is that the ability to scan legal cases. Christensen (2006) in her analysis entitled "Legal Reading and Success in Law School: AN Empirical Study" shows that students United Nations agency area unit ready to scan judicial opinions effectively and expeditiously area unit a lot of fortunate in their studies. However, the foremost common assumption is that students would have possessed this talent once they recruit during a graduate school. This attitudinal misconception is stated as "skills preparation assumption" (Strat man, 1990). Thus, this paper describes a hunt that tried to explore the common practices within the reading of legal cases among law students during a Malaysian public university. It emphasizes on the issues moon-faced and also the methods used by law students in winding up the task. This study that adopted a case study style obtained the information through interview sessions with a number of law students and lecturers. The results showed that more practical pedagogic approaches may well be devised to help students to beat their issues in reading legal cases. Students were additionally found to own developed their own techniques in overcoming the difficulties in reading legal cases.*

## INTRODUCTION

One of the foremost essential skills for law students to achieve success in their discipline is that the ability to browse legal cases. Christensen (2006) in her analysis entitled "Legal Reading and Success in Law School: AN Empirical Study" shows that students World Health Organization are ready to browse judicial opinions effectively and expeditiously are a lot of no-hit in their studies.

Despite its importance, she claims that several law colleges simply give token coaching on a way to browse legal texts ably. The foremost common assumption is that students would have possessed this ability once they recruit in an exceedingly grad school. This attitudinal false belief is mentioned as "skills preparation assumption"(Stratman,1990).He highlighted that legal educators have mistakenly created the belief that law students World Health Organization enter law colleges are absolutely equipped with spare acquirement skills that are without delay transferred to the legal texts.

Yet if truth be told, reading legal texts proves to be AN arduous task to most of the law students. Krishan (1981) identifies this example as a 'transition problem', that refers to a perceived gap within the West Germanic language and study ability talents of learners World Health Organization have responded to ancient language categories, and people needed for study functions within the totally different disciplines. He argues

That content-based EAP courses will impart each subject data and language ability at constant time. In fact, spare coaching on the reading of legal cases is deemed to be of utmost importance owing to the linguistic quality of the legal language and also the inherent elaborateness within the method of legal reading notably within the reading of legal cases.

### Linguistic complexity

We often hear Law lecturers whiney of their students' inability to scan cases, comprehend the law etc. It extremely baffles these lecturers that once about 13 years of learning English, the scholar's square measure still fighting it. to those Law lecturers this inexplicably complicated riddle lies within the students' incompetence within the West Germanic however the crux of the matter truly lies with the character of the language itself. Legal English, with its distinctive structure, has forever created plenty of confusion and difficulties to not solely laymen however conjointly law students. To a good extent, it ends up in plenty a lot of quality than an honest understanding of the legal texts. as an example, Badger (2003, p.251) states that "law reports have uncommon vocabulary and complicated syntax"

while Christensen (2006) describes the primary expertise of reading a judicial opinion as ‘confusing’, ‘mystifying’ and ‘unfamiliar’.

An explication on the distinctiveness and quality of the legal language is provided by Bhatia (1993) in his clarification on the syntactical options of legislative provisions wherever he states that “most legislative provisions square measure very made in qualification insertions among their syntactical boundaries” (p.111). He selected a region from the Housing Act 1980, kingdom as an instance this point:

[11] Where a secure tenant serves on the owner a notice in writing claiming to exercise his right to shop for the dwelling-house, and if the owner refuses to admit the tenant’s right to shop for the dwelling-house, then, subject to the subsequent provisions of this Section, the Secretary of State, if he thinks correct, could by means that of a written notification create special rules in pursuance of his powers beneath Section fifteen of this Act for the aim of sanctionative the tenant to exercise his right to shop for the dwelling-house (notwithstanding something contained in Section fifty one of the land Registration Act 1925) among a amount of six months from the date of such a refusal, providing the dwelling-house, or any a part of it, isn't getting used for charitable functions among the which means of the ‘Charitable functions Act 1954’ (p.111)

To novice Law students and non-legal people, the extended provision on top of that are written in an exceedingly single sentence could also be perceived as a labyrinth of unimaginable knowledge and phrases. However, Bhatia stresses that the qualifications truly facilitate to clarify and add exactness to the most probationary clause. Notwithstanding, he doesn't deny that they will result in ambiguity unless they're ‘placed judiciously’. sadly this ‘judicious placing’ of the qualifications leads to the creation of ‘syntactic discontinuities seldom encountered in the other genre’ that eventually ends up in awkward, ambiguous and tortuous sentence structures(p.111).

Thus, it's not shocking that each native and non-native speaker of English equally found it tough to scan legal texts. Among those difficulties were inability to understand the importance of a case and failure to tell apart material from non-material facts, culture-related issues, inability in comprehending the judges’ rhetoric and sophisticated syntax(archaic grammar), legal knowledge and reading (Davie,1982). Similarly, Bowles (1995) highlights that Law students in European country and Wales conjointly face difficulties in reading law reports as a result of the involution of the language.

## LEGAL READING

According to Christensen (2007) readers of legal texts ought to possess four forms of reading information so as to completely grasp the gist of their reading .They are “word recognition, text structure, grammatical information and reading strategies”(p.606).

The reading of legal texts with its convoluted sentence structures becomes a lot of hard to please for it includes specific legal nomenclature. so as to completely capture the that means of those legal jargons, students should possess adequate background. They have to be ready to herald ‘real world’ information into the legal texts (Deegan, 1995) so as to move with them. Besides that, matter information of legal texts will ease comprehension in reading this genre. Bhatia (1993) introduces four moves within the matter structure of a legal case. They’re Move 1: distinguishing the case, Move 2: Establishing the facts of the case, Move 3: difference the facts of the case, and Move 4: saying the judgment. Information on these moves can indefinitely facilitate students to browse the text a lot of expeditiously. Additionally, grammatical information can “help the readers perceive the connection among ideas inside a sentence” (Dewitt, 1997, p.225). However, Christensen (2006) cautions that understanding the grammatical and syntactic structure of legal texts could cause such a challenge to novice legal readers as a result of its involved and sophisticated nature. and eventually, information on reading ways has conjointly tried to be of nice importance for it permits readers to “set a purpose for reading, self-question, explore for vital data, create inferences, summaries and monitor the developing meaning” (Dewitt, 1997, p.228)

## READING LEGAL CASES

The purpose of reading legal cases is compactly expressed by Morainic (1997, p.17) United Nations agency mentions that “a case is scan for the aim of presenting AN argument or legal reasoning [where students] should be ready to determine the similarities of the case he/she is handling with AN authority (landmark case)” and conjointly notice the “question of law” that results in the legal principles or quantitative relation decadent. Badger (2003)

explains that specialists commonly scan law reports to spot the quantitative relation decided (legal principle). Therefore, learning a way to notice this principle of a case is a very important part of the coaching of a professional (William, 1982 in Badger, 2003).

Based on the most purpose higher than, Badger (2003) indicates in his study entitled 'Legal and general: towards a genre analysis of newspaper law reports' that data on the lexicon-grammar and text structure of the law reports can guide students to spot the quantitative relation decided. His findings concur with the sooner proposition created by Christensen on the four needed data in reading legal texts (e.g. text structure).

#### Statement of the matter

It is undeniably true that the flexibility of finding/identifying the quantitative relation decided in an exceedingly legal case isn't any doubt a very important ability for legal students. However, it solely captures the reading of the case at a matter level (the exterior, the structural) as a result of it primarily informs the scholars wherever the quantitative relation decided is settled supported the structural organization of the text. In my opinion students should even be ready to go deeper into the case than the surface level. They must be ready to scrutinize it, synthesize the knowledge and hunt for the connections. In alternative words, they must be ready to communicate intellectually with the text. Thus, it's terribly crucial to coach students to analyses the arguments in an exceedingly case to check however the quantitative relation dividend was derived.

This ability is of dominant importance because of the character of the common law system wherever "the major supply of law is precedents set by antecedently determined cases, i.e. the 'doctrine of binding precedent'. So, they must be ready to build connections between the previous cases with the cases they're reading. Simply put, they have to be ready to see however the legal principles were employed in the previous cases and the way they're applied within the gift case that results in the choice. This ability to analyses the arguments is vital for law students as a result of as future lawyers they have to be vital, analytical and 'sharp'. I powerfully believe that the reading of legal cases mustn't solely build the scholars become higher readers however a lot of significantly higher thinkers.

Thus, in my study I'm interested to seem at the psychological perspective within the reading of legal cases. a lot of specifically I'd prefer to resolve however students analyses the arguments given within the case that results in the quantitative relation dividend.

### **SCHEMA THEORY AND LEGAL READING**

Different professions or occupations need totally different levels of attainment looking on the system and also the nature of the discourse community. It's terribly obvious that totally different occupations impose larger skilled demands of the word than others. for instance, Judge (1987) (in Urquhart and Weir, 1998) notes that novice surgeons don't ought to rely such a lot on written word for it may be salaried by video-tapes, laptop simulations, etc., in contrast to lawyers UN agency are terribly passionate about the texts. And legal texts, being a awfully distinctive genre in its type and structure, create an awfully large challenge for law students and novices. Notwithstanding, rather than scrutinizing its forms and structure, this study aims to research however well Law students 'interact' with the legal cases. Bearing in mind the distinctive nature of legal cases that is predicated on the 'doctrine of binding precedent', the research worker would love to search out however the Law students utilize their 'content schemata' (background data of antecedently set cases) to create connections with the cases they're reading. a lot of specifically, she would love to search out however the legal principles were utilized in the previous cases and the way they're applied within the gift case that ends up in the choice. In different words, this analysis makes an attempt to penetrate into the

psychological realms of the students' minds to spot and create by mental act the methods they use whereas reading the legal cases.

### **RESEARCH IN LEGAL READING**

According to Christensen (2007), the analysis on legal reading remains at Associate in nursing infancy stage. It's solely been developed twenty years past. Though it's comparatively new, it's vital important to scrutinize the analysis that is conducted and extract the important problems raised, that this part of the paper plans to try and do.

it'll look into the in depth studies done by students during this space like Christensen (2007), Badger (2003), Lundeberg (1987), Deegan (1995), etc.

One of the pioneers of legal reading was Blessed Virgin a Lundeberg. In 1987 she conducted an awfully in depth study on legal reading that may be divided into 2 phases. The primary section was a descriptive study whereby the aims were to spot the reading methods of law specialists and novices and to match them between the 2 teams. From the findings of this study, she later developed a case analysis guideline and captive to the second section of the analysis wherever the aim was to search out if a coaching of the case analysis guideline would be helpful to law students.

Ten specialists and 10 novices were concerned within the 1st section descriptive study. The specialists consisted of eight law professors and 2 attorneys UN agency had practiced or tutored law for a minimum of 2 years; whereas the novices came from various non-law connected disciplines however deemed to be sensible readers. They were needed to scan 2 contracts cases. Through the appliance of think-aloud procedure Associate in Nursing a tailored version of peer-tutoring paradigm, she was ready to establish six comprehension methods utilized by the legal specialists that she then compared thereto of the novices. Those methods were 1) use of context 2) summary 3) rereading analytically 4) underlining 5) synthesis and 6) analysis. The findings showed that the specialists created use of every strategy quite the novices.

From these six methods she then developed a four-step case analysis guideline that consisted of golf stroke the case in context, overviewing the case, rereading the facts and necessary terms within the explanation analytically and synthesizing the case components. She experimented this guideline on four totally different classes of scholars 1) law students with no grad school expertise

2) Law students with two week's expertise

3) law students with 2months' expertise and 4) law students with 1-2 years expertise. The tests illustrated that novice students UN agency received coaching on the employment of the case analysis guideline created vital improvement within the reading comprehension of legal cases compared to the senior students.

From Lundeberg's analysis a number of conclusions may be derived. Firstly, her study clearly shows that law specialists utilize totally different reading methods than the novices. And second, the coaching of those reading methods would be greatly helpful to law students notably those that have simply registered in a very grad school. In my opinion, besides that specialize in the reading methods and their use, this analysis additionally highlights the importance of content data – data of law- in comprehending the legal text. this is often most evident in each sections of her study wherever at the initial phase, the specialists used their legal data in deciphering the text whereas the novices, despite being sensible readers, weren't ready to comprehend the text the maximum amount thanks to the shortage of it. what is more, throughout the second section, the coaching of the case analysis guideline failed to profit the mature law students for they “had developed a content in law, that the freshman students lacked, and will therefore activate this strategy” (p.428). Thus, it may be assumed that novice law students relied heavily on the reading methods of legal cases to catch up on their lack of legal data.

One of the newest and most referred studies on legal reading was conducted by Leah Christensen (2007). She needed to search out whether or not there's a correlation between the employment of sure reading methods of high law students and their 1st semester grades. The idea of the reading methods was adopted from Deegan (1995) that were problematizing, rhetorical and default methods. Every reading strategy involves a unique level of knowledge. Problematizing strategy needs learners to unravel problems; whereas rhetorical strategy means learners value their reading against their own experience; and default strategy contains basic methods to maneuver through the text. She dispensed a assume aloud procedure on twenty four 1st year law students UN agency had simply completed their 1st semester of study at a personal, urban U.S.A. grad school. They were divided into ‘higher performance’ and ‘lower performance’ teams. The legal text used was judicial opinion. The findings of this study confirms that there's a correlation between the employment of sure reading methods successfully in grad school whereby booming students spent longer exploitation problematizing and rhetorical reading methods and fewer time on default methods. In short, booming law students use a lot of cognitively difficult reading methods effectively and expeditiously than the less booming ones.

This analysis has undeniably been ready to show the direct correlation between reading methods and learners' educational performance. However, in my opinion, potency cannot merely be measured by investigation the quantity of your time the scholars use sure strategy as a result of the frequency in employing a specific strategy may be associated with another factors like the students' preferences, the readability of the text, etc. a way a lot of vital and significant task is to research however economical the scholars are in utilizing the various reading methods, that this gift study intends to undertake.

## CONCLUSION

This little alpha analysis that aims to get the common practices bearing on the reading of legal cases at the Ahmad patriarch Kulliyah of Laws (AIKOL) was able to unearth some crucial problems. the foremost necessary discovery created is that law students in AIKOL area unit given enough coaching on the reading of legal cases through courses like Basic Legal methodology, Legal methodology and required Moot. this can be so contrary to the claim that the majority law colleges solely give token coaching on a way to scan legal texts ably (Christensen, 2006). it's additionally plain and a relief that AIKOL doesn't represent the entice of the attitudinal misconception spoken as "skills readying assumption" by Stratman (1990) that postulates that students would have possessed this talent after they inscribe in a very school of law.

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