第十三届『华政杯』全国法律翻译大赛

初赛试题

注意事项：(1) 参赛译文须独立完成，抄袭他人译文、提交机器翻译译文或有其他舞弊行为的，一经核实，取消参赛资格。

(2) 参赛译文版面需清洁美观，依序另页提交（标示题号，不需要保留英文原文，提供汉语译稿；英文使用 Times New Roman 字体，中文使用宋体，小四号字，1.25 倍行距；现有格式，无需变动）。

『华政杯』全国法律翻译大赛组委会

2022-04-25

第一部分 法学教育

Law is multidisciplinary but legal education does not sufficiently recognize this. Adversarial pedagogy is the norm. Legal education reform requires shifting the focus of law study to a broad array of approaches that minimize competition by emphasizing interpersonal and investigative capacities. It needs reforming, restructuring, and resequencing to acknowledge there is more to lawyering than litigation and legislation. Law is an important tool in the toolbox of political transformation and policy revolution — but it needs better implementation. The Socratic Method of teaching is necessary, but insufficient. It ensures students learn analytical reasoning but does not promote development of the legal imagination necessary for effective advocacy. Lawyering and policymaking interrelate because law's intellect is parasitic—it interpenetrates multiple disciplines blending concepts in action. Law study instructors realize this but cannot get beyond the narrow, confining barrier of too much focus on theory with not enough attention on context. Legal education reform is necessary to change the model and rebalance the elements. Presently, there is too much focus on doctrine and not enough on interdisciplinary learning. Correcting this imbalance demands a reallocation of proportionate weight in teaching doctrinal pedagogy, replacing that emphasis with the role of culture using multidisciplinary discourse and experience to integrate all component parts.

Integration through context encourages creativity, a sense of community and flexibility diminishing certainty, individualism, separateness, and stability. It is a holistic method of teaching that rehumanizes law using experiential modeling with corrective feedback. Students learn by modeling proper responses in real-life practice-settings. Instructors simplify complex patterns to deconstruct problems and elucidate solutions. Such a law study approach engages students in practical problem-solving producing benefit for the community. Students must learn perspective, insight, litigation knowledge, evidence-gathering, courtroom techniques, negotiation skills, and practice competence in practice. This training is possible by means of clinical work where learning occurs through feedback, guidance, modeling, and mentoring pedagogies. Student learning in such settings reinforces how law is not autonomous, how random actions impact results. Collaborative problem-solving activities actualize knowledge and encourage reflection on performance. This is better

teaching for practice. Although law study in its present form is useful, it is imperfect.

Teaching law is a business. Doing that well is good business. A successful business is one that effectively responds to stakeholder needs. Law students (as customers) must learn professional competence. Law students seek knowledge useful for practice. Firms seek competent lawyers. The trick is transforming students into competent practitioners. Law schools must create functional outputs. To that end, law study programs must increasingly borrow effective pedagogies from other disciplines to teach learners how to transform knowledge into practical results more effectively. Opposition to reform exists but is not insurmountable. Overcoming opposition requires implementing changes capable of producing benefits and minimizing disruptions. （453 words）

第二部分 国际法

Although the background of all this is undoubtedly complex, legal aspects are also involved — if only because they play a considerable role in the altercations between the parties concerned. The invocation of domestic Ukrainian — as well as international law — raises a variety of questions, from the pragmatic to the philosophical. A preliminary observation should be that the expectation that the problems involved could be handled adequately through a legal approach is unfounded. Among their complex causes, legal questions are of only secondary importance. In such and similar situations, one should ask whether legal remedies could actually be helpful or whether they would make things worse.

From the point of view of domestic Ukrainian law, the main charge made by the present Ukrainian government—supported in this by many Western leaders—is that the secession of the Crimea violates the Ukrainian Constitution and therefore is unlawful. The point is valid, but worthless, because almost all secessions are unlawful, until they are successful. Then, in the end, everybody recognizes them or at least acquiesces.

In international law, consensus may arise when all courts and tribunals, governments and international agencies—as well as scholarly doctrine—are agreed on a certain point. Such law will most likely also be applied in practice and enforced. But even in such a situation, a case may arise when a state feels that its vital interests are

at stake and it chooses another course of action. International law, therefore, can only function effectively as a means of solving disputes between states when two conditions have been satisfied: there must be a very broad and preferably universal consensus about its actual content in a specific case, and the "cost" calculation must be acceptable to the state being asked to comply with international law.

The usual situation—when important state interests are at stake—is that there is no broad or universal consensus about what international law dictates. In other words, the contents of international law cannot be authoritatively and effectively established in many important cases. This has been demonstrated abundantly during the last two decades in a number of major international conflicts. The present crisis resulting from the secession of the Crimea follows a similar pattern. Western and Russian leaders both claim that international law is on their side, but there is no world court or voice from heaven to establish (authoritatively) what international law demands and to secure (effectively) the enforcement of its dictum. In other words, international law is usually not knowable, in the way in which national law is. (423 words)