

Academic Duty

We now have a British Government that appears to believe that the rule of law is a dispensable option and that the British judiciary is the last vestige of trade-union style self-interest. Ministers are more interested in tabloid headlines about asylum seekers than de Tocqueville and look at judges who criticise them with the same eyes that Margaret Thatcher once turned on coal miners. For such politicians, courts are only needed when they speedily give judgments that are politically expedient. Such people think a sizable winning majority in a General Election is a sensible retort to arguments about human rights and that the legal system is merely an occasional bureaucratic necessity. Yet, in these times, when political thought is far more about politics than thought, we still have academics who believe that the academic duty to speak truth to power is best served by giving detailed consideration to the correct size for a lecture appraisal form and agonising over alternative ways of advertising their law schools.

Academics, whether in the law school or elsewhere, are not here to be loved or even liked. They are here to test and goad not to praise and pamper. Academics are, of course, sometimes self-righteous, pedantic, solipsistic, neurotic and obsessional. On occasion they will be disposed to sacrifice their first born child to the altar of an idea that no-one else regards as being of the faintest interest. Not infrequently, they regard their own ideas with the awe usually reserved for the creation of the universe and the ideas of others with the contempt usually accorded to those found in the last circle of hell. What other kind of personality would be willing to spend a life engaged in work that the majority of the population regard with a faint scorn that is based on total ignorance? What other kind of personality would be willing to put forward ideas that, if they are truly new, are likely to be met with immediate rejection and probable ridicule. Yet, if academics do not speak out, who will? If academics do not explore the unexplorable or that which is thought not worth exploring, who will? If academics are not willing to be sceptical about that which a society holds most dear and most sacred, who else will give voice to a challenge? In a parliamentary democracy, who else will remind Government that democracy is not a substitute for truth and power is not a substitute for being right?

Those in law schools, like academics elsewhere in the university, play with pebbles on the sea-shore of knowledge and sometimes, when they turn over a stone, something intensely unpleasant scurries out from underneath. They are concerned with the all legal phenomena; the immediate and obvious, like Government ministers seemingly ill-tutored in law or, indeed much else, and with the apparently arcane, like the images of law that pervade the culture around us. In the end, because they study law in whatever form it takes, legal academics fix their attention on governance. Their interest is in aspirational governance. They are concerned with telling a society what it can be. Whether it becomes what it can be is, in the end, a matter for others.

Success in law schools is not about meeting production targets for widgets, whether those widgets are expressed in terms of student numbers, degree outcomes, number of pieces published, research income or choruses sung to the glory of the vice-chancellor; success is about looking at legal phenomena and one day saying something no-one else has said and no-one else could say.

Law schools, like their parent universities, need to be administered and, since law schools and universities are constantly in revolt against the spirit of their times, such administration is a particularly difficult matter. But focus on the photocopy budget, details about staff holidays and the latest directive from the Director of Something Deeply Unimportant in the university's central offices is not about law school administration; it is about frittering away one's time until early retirement beckons. Law school administration is about fighting for the space for academics to be scholars and it is about reminding scholars that not everything that they are told that they should do is in fact worth doing. There is a proper amount of time to be spent on the trivia of form-filling and a proper amount of time to be spent contemplating legal phenomena and reporting on what one finds; there is not much time for the former and academic duty involves concentrating on the latter.

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