

# The study of law



**David Fabri**

The latest issue of ID-DRITT has just been published. It is the 28th edition of this evergreen law students' publication that has helped fill a serious void in local legal scholarship. The Foreword was written by the current Head of the Commercial Law Department, Dr David Fabri, and is being reproduced here.

Entitled 'The Study of Law', it contains various timely warnings and remarks about law-making in Malta.

Law is an interesting, vital, useful, necessary and evolving phenomenon. It reaches into, influences and guides most aspects of our lives. Law is a civilised and civilising device which allows us to lead better lives together in, and as, a community. It makes our lives safer and more predictable than they otherwise might have been. Law makes the lives of ordinary people less difficult and holds government and authority to account.

Law is a special and important subject to learn and to teach. The study of law is also a wonderful intellectual challenge – it is not about merely passing exams. If mishandled, law studies can become boring and seemingly useless. Bad teachers can ruin one's interest in law. It does not need to be like this. The study of law is not about learning stuff by heart, or memorising set answers to exam questions not yet even set, or about class notes and past papers. These are mental traps and one should rebel against these unworthy practices, rather than idly embrace them. Certainly, dictation suits the law very badly. How could so many closed minds almost ruin it for us by transforming the study of law into a monotonous and senseless burden?

We live in a fast-changing world. Knowledge is key and crucial for one's self-development, for one's entertainment

and for one's interactions with others. Students have made a good choice entering the law course. It is a badge of honour to be, and to be described as, a university student. Students must work to deserve that privilege. Students do not come to university just to study for exams, but to open their minds to knowledge. Learning is fun, and one should try to have fun while learning about law and its evolution.

Luckily, today we have far greater access to laws, cases and publications. Students, you should surround yourselves with books – even books you might not eventually ever read; serious books as well as fun books. They will sit there faithfully and silently waiting their moment to arrive. Put up shelves and bookcases wherever you can possibly fit them.

One may start with such instructive older texts such as the Code of Hammurabi and the Magna Carta, any book by the brilliant Lord Denning or any from the hilarious Rumpole collection. No real alternative to reading exists, and there are no short cuts: either you read, or you don't. If you do not like reading, then you are in the wrong profession – indeed, in the wrong place.

Laws should not be examined in isolation, but within their historical and political context. Everything has a context and law is certainly no exception. A student should try to understand what the law is seeking

to achieve. Is it a good law? Is it being done for the right purpose? Who is pushing it? What led to it? Are its objectives clear and has it been properly drafted? Does it achieve the intended objectives? Is it workable? Is it comprehensible? And how can one improve upon it?

Law students cannot simply accept what they find as if no alternative exists. There is no such thing as a perfect law. One can always find a different and a better way of doing things. This is where students come into the picture: they should analyse things, criticise them and work to improve them, thus offering new insights. Students leaving university with a law degree should remain humble and continue studying and learning beyond that which was taught.

Perhaps now more than ever before, we need to know how and why laws are being made, and why some laws have been conceived and drafted so poorly. We desperately need a more informed and coherent discussion of what we want to achieve from regulators and regulation, what the objectives are, what risks need to be better managed, what dangers lie in wait, what mistakes and deficiencies have been identified, how regulators should conduct themselves and what the future holds for us in this area. In this context, Id-Dritt should become quality and compulsory reading.

Criticism of legislation is still too soft or in-existent and we now need to start adopting harsher pens. Id-Dritt should take the lead, build on what has already been achieved and continue to improve legal knowledge. No more mere reviews, no more descriptions, no more simplistic narratives, no more vanity articles but more original analysis and innovative solidly researched criticism. This should be the cardinal objective of this student publication.

Writing well about law, like writing good laws, presents significant challenges. It is not enough just to write, but one should seek to make an articulate, original and substantial contribution to knowledge and to the community, a contribution imbued with a strong sense of justice.

So many legal developments have happened during these past 25 years that it may sometimes seem difficult to keep up. There have been so many new regulators and so many new regulations; so many poorly-drafted laws to correct; so many bad laws to improve – to strike down, to replace; so many new good laws still to adopt and so many laws not enforced or enforced selectively.

There is so much to read, so much to think about, so much to criticise, so many small and big injustices, so much to change and improve.

So much to write about, so little time.