



LEGAL REASONING IN BACHELOR OF LAWS EDUCATION IN VIETNAM

RAZÃO JURÍDICA NA EDUCAÇÃO DE BACHELADOS EM DIREITOS DO VIETNÃ

RAZONAMIENTO JURÍDICO EN EDUCACIÓN DE LICENCIATURA EN DERECHO EN VIETNAM

Vien The GIANG¹
Vo Thi My HUONG²

ABSTRACT: The article deals with the issues of practice, training and formation of legal reasoning in bachelor of laws education in Vietnam. The analysis and comparison of practice, education, formation of legal reasoning in legal education at some universities in the world and in Vietnam show that Bachelor of Laws educational activities in Vietnam are in the development stage in terms of enrollment size. There has not been any education program and instructional practices designed for legal reasoning. As a consequence, learners' legal reasoning has not yet developed—a typical kind of thinking that is only obtained by those who study laws. In the current international integration context, it is very necessary to add legal reasoning as an indispensable philosophy to concretize it in the structure of bachelor of laws education programs. This change is considered necessary to narrow the gap in bachelor of laws education in Vietnam with other countries.

KEYWORDS: Legal reasoning. Education program. Bachelor of laws.

RESUMO: *Este artigo trata das questões de prática, treinamento e formação do raciocínio jurídico na educação de bacharelado em Direito no Vietnã. A análise e comparação da prática, educação e formação do raciocínio jurídico na educação jurídica em algumas universidades do mundo e no Vietnã mostram que as atividades educacionais de bacharelado em Direito no Vietnã estão em fase de desenvolvimento em termos da quantidade das matrículas. Não tem havido nenhum programa educacional e práticas instrucionais projetadas para o raciocínio jurídico. Como consequência, o raciocínio jurídico dos estudantes ainda não se desenvolveu. No atual contexto de integração internacional, é muito necessário acrescentar o raciocínio jurídico como filosofia indispensável para concretizá-lo na estrutura dos programas educacionais de bacharelado em Direito. Esta mudança é considerada necessária para diminuir a lacuna na educação de bacharelado em Direito no Vietnã com outros países.*

PALAVRAS-CHAVE: *Raciocínio jurídico. Programa educacional. Bacharelado em direito.*

¹ Banking University, Faculty of Economic Law, Ho Chi Minh – Vietnam. Ph.D. ORCID: <https://orcid.org/0000-0001-9218-473X>. E-mail: giangvt@buh.edu.vn

² Ho Chi Minh City University of Technology and Education – Vietnam. MA. ORCID: <https://orcid.org/0000-0003-1943-6827>. E-mail: huongvtm@hcmute.edu.vn

RESUMEN: *El artículo trata las cuestiones de la práctica y la formación del razonamiento jurídico en la educación de licenciatura en derecho en Vietnam. El análisis y la comparación de la práctica, la educación, la formación del razonamiento legal en la educación jurídica en algunas universidades del mundo y en Vietnam muestran que las actividades educativas de la licenciatura en derecho en Vietnam están en la etapa de desarrollo en cuanto al tamaño de inscripciones. No ha habido ningún programa educativo ni prácticas de instrucción diseñadas para el razonamiento legal. Como consecuencia, el razonamiento legal de los estudiantes aún no se ha desarrollado. En el actual contexto de integración internacional, es necesario agregar el razonamiento jurídico como filosofía para concretarlo en la estructura de programas educativos de licenciatura en Derecho. Este cambio se considera necesario para reducir la brecha en la educación de licenciatura en derecho en Vietnam con otros países.*

PALABRAS CLAVE: *Razonamiento jurídico. Programa de educación. Licenciatura en derecho.*

Introduction

Reasoning represents a high stage of the cognitive process, dives into the nature and discovers the regularity of things by means of symbols, concepts, judgments and inferences (INSTITUTE OF LINGUISTICS, 2010) that are established to monitor the correctness of inherent things, phenomena, and views, provides additional, accurate, and complementary information to contribute to perfecting the development of human knowledge (VU; NGUYEN, 2016), this is called how to think of a certain problem. Legal reasoning is a specific type, associated with legal phenomena and covering the nature of professional reasoning of people systematically trained in law, associated with state and legal practice in theoretical and practical aspects of the legal academic discipline. In terms of legal reasoning, the theory of state and law is associated with the interpretation of legal theories as the basis for the formation of legal philosophies. In terms of practical practice, legal reasoning is a form of professional thinking, associated with the working environment of legal academic discipline, denoted in fighting for justice and legitimate interests of people. Not similar to conventional reasoning, legal reasoning focuses on (practical or legal) right issues that are both critical, destructive, protective, predictable and highly persuasive.

Bachelor of Laws is an educational product of a higher education institution with a law training program. Bachelor of laws education in Vietnam is towards academic direction and degrees are granted in a separated manner from the working environment of legal academic discipline. Law lecturers in public higher education institutions are not allowed for law practice due to the prohibition of specialized laws, as Article 17.4(b) of the Law on lawyers



No. 65/2006/QH11 dated June 29, 2006, which stipulates that current cadres, civil servants, public employees; officers, professional soldiers, defense workers in agencies and units of the People's Army; officers, noncommissioned officers, workers in agencies and units of the People's Public Security are not granted law practice certificates which becomes a significant barrier to improving the practicality and legal reasoning in bachelor of laws education today. In order for legal reasoning to become a philosophy throughout the education of bachelor of laws in Vietnam, it must be concretized in the structure of education programs as well as subjects, also engage legal organizations in training activities to have a balance of legal reasoning, legal philosophy and practical thinking of the legal academic discipline.

Legal reasoning: A factor across the educational process of bachelor of laws, but inconsistent in terms of content and expression

Global debates about the content and methods of legal education which reflect the characteristics as well as create the basis for learners to be confidently integrated into an extremely diverse and complex working environment mentioned by many scientists and are also concerns of law schools from many different perspectives (STELMACH; BROZEK, 2006). It is also stated that thinking in the role of a lawyer is a new approach to legal reasoning (SCHAUER, 2009). Katherine R. Kruse (2015), based on the criticisms of the Carnegie Foundation in its 2007 study of lawyer training, showed that the instruction based on pure legal doctrine is not enough for prospective lawyers to practice. Due to economic fluctuations, law schools are required to take a strategic look to ensure student enrollment. This practice provides law schools two seemingly contradictory goals of providing more practical training to a greater number of students at lower operational costs. To achieve this goal, the training programs of law schools need to be restructured to help students with the acquisition of basic legal knowledge, essential lawyering skills and underlying professional values.

In the United States, legal training has undergone a transition from apprenticeship to academic training, requiring a clear definition of retained practice content and practical training which has been applied in most law schools. Skill training for law students varies between training institutions. Most law schools are attempting to introduce basic legal professional skills as a basis for students to study in subsequent years. Legal writing and research skills are traditional in legal training. However, in the training process, other skills





also need to be further enhanced on the basis of legal writing, analysis and research skills (SILECCHIA, 1996).

Legal training in Vietnam is in a period of strong transformation when the most difficult *barriers* of the former Soviet legal reasoning are being removed. At the same time, the integration of legal reasoning by appointing cadres, civil servants, researchers and lecturers to study around the world as a need to promote the training and practice of scientific legal reasoning to keep pace with the current international integration. The conflict of opinions, ideas, and methods of legal training requires that legal training in Vietnam must also meet the requirements of legal reasoning—a specific type of thinking. There are many differences, and training is required to set up thinking tools to practice or provide legal services. However, identifying the nature, components, methods of transforming the content and requirements of legal reasoning into the law training program in Vietnam still seems quite new, even it is also considered to be very “primitive, not even mentioned” (DAU, 2016, p. 168, our translation). Meanwhile, training of legal reasoning in the United States “is included in schools as a compulsory subject which is taught in the first year of law students, with duration of 6 credits (in two semesters) with a very heavy workload” (NGUYEN, B. T., 2016, p. 133, our translation).

From a comparative perspective, Nguyen Hoang Anh said that British and American lawyers are often taught in event assessment, need to have an overview to fully grasp the issue, then need to properly identify underlying legal issues, and come to conclusions of the case, so the *why* question is important in assessing core legal issues of the case. Civil Law lawyers often evaluate events in the following way: i) determine whether such event actually exists; ii) in case of existence whether such event is actually classified according to the assumption—situation section of legal norms? (NGUYEN, H. A, 2016, p. 144) From the comparison results, Nguyen Hoang Anh concludes that Civil Law’s legal reasoning reflects methodical and philosophical assessment of the practical law based on a complete analysis of practical legal norms and this approach is completely applied to thinking and evaluating legal documents in Vietnam (NGUYEN, H. A, 2016).

From the perspective of law practitioner, the lawyer Nguyen (2010) said that thinking like a lawyer is a lawyer’s reasoning tool, what a lawyer thinks in their head (thinking) to analyze events in order to connect them with the corresponding law by asking questions in a certain legislative way called formal logic. On the basis of law, that question is called a legal question and answering it helps to find solutions in accordance with the law. A lawyer’s legal





reasoning is completely different from the *law academic discipline* in the lecture hall. Therefore, failure to clearly distinguish legal reasoning in the lecture hall and legal reasoning in the profession makes it very difficult for graduates to access and integrate into the workplace which is very different from the lecture hall.

From the above approaches to legal reasoning, it is shown that it is a particular type of thinking, not only for those who are basically trained in law systematically to obtain diplomas or certificates, but also for all classes of the population, evidently reflected in situations where people are forced to use the law to solve a legal situation arising in real life. Solving cases related to legal issues is completely different from dealing with social events and phenomena based on morality, ethics or customs. From the above-specific thinking, legal reasoning is actually how to recognize and evaluate a social event, phenomenon based on the legal foundation so that people with legal knowledge can assess and make judgments of (how to solve) legal issues, can identify and judge right or wrong, legal or illegal issues, legal rights and obligations arising for each subject, etc. Therefore, training to form legal reasoning in law education as a training philosophy is essentially equipping people with necessary skills so that they can come up with answers on their own, as well as the most appropriate solutions and judgments to resolve legal situations arising on the basis of:

- 1) Events and cases extremely vary, but when they are assessed, it is a must to find out the specificity of such events and cases;
- 2) Regulatory requirements always cover changes to suit the realities and needs of managers, so it is necessary to equip learners with basic theories of legal aspects to evaluate and make judgement;
- 3) Common sense, fairness, legal doctrine—a significant complement to the limitation of written law compared with diverse real life.

Education, training, forming legal reasoning in the philosophy of law training should be a continuous process. If in the first year, learners need to be equipped with fundamental legal reasoning as a basis for learners to apply common laws of legal reasoning to other aspects or the legal academic discipline. However, there are still many concerns about the training of legal reasoning in the first year (SILECCHIA, 1996). Some schools use templates to train legal reasoning for law practitioners (STANFORD LAW SCHOOL'S IRAQI LEGAL EDUCATION INITIATIVE; AMERICAN UNIVERSITY OF IRAQ, SULAIMANI, 2014). Education and training of legal reasoning can be a compulsory module for students, or can be





instructions that help lecturers develop and help learners practice their legal reasoning. Also, education, training and formation of legal reasoning is a mandatory requirement for specialized law training programs, which is the basis to distinguish law school students from students of other training disciplines. The results of education, training and formation of legal reasoning help to form the identity and reputation of each law training institution which is also an important factor for stratification and ranking of legal universities through the quality of training and is reflected in the number of students who are employed in the law after graduation.

The practice of legal training in some schools requires that legal training activities aim at not only thinking like a lawyer but also providing legal services to the poor. The civic responsibility requires consideration of legal training towards to encourage learners to think about the responsibility for providing legal services for social and economic development through the law and wise administration (WIZNER, 1998), indicating that a great change happens in the concept of legal training goals. This is really a big challenge not only for law higher education institutions (but in fact, it is the balance hypothesis between the right to access education for the majority and the requirements to ensure the quality of higher education) but also for law lecturers and students.

Bachelor of Laws Education in Vietnam: Enrollment targets, market share attracts more attention to legal reasoning

Education and granting bachelor of laws degrees in Vietnam are being carried out in the model of academic training (PHAM, 2014). Graduates will be granted diplomas and degrees depending on the level of education. For specialized law practice, associated with legal services such as legal advice, notarization, defense, appraiser, auctioneer, etc., law graduates must pass professional classes provided in universities by specialized management divisions. In the field of law, these classes are organized by the Ministry of Justice. If recruited, law practitioners will take over professional titles such as lawyer, notary, appraiser, auctioneer, asset manager, etc. Those who practice law in state agencies will be appointed to the ranks of civil servants. Commenting on job opportunities for graduates, Pham (2014) said that only a very few will work as judges, a more significant number of others will work as investigators, prosecutors, litigation lawyers, advisory lawyers. The great majority will seek employment opportunities as legal officers in enterprises, civil servants in state agencies, civil servants in social organizations, associations, media agencies and civil society. An increasing





proportion of law graduates establish and run businesses themselves, in direct competition with bachelors in economics or business administration, so today's law education needs to equip learners with knowledge and skills to compete flexibly in an increasingly diverse job market.

From the reality of legal education activities in relation to education, training and legal reasoning, we realize that:

Firstly, it is the rapid increase in the number of higher education institutions that are authorized for law education which is making the law of higher education activities less efficient, and the competition to attract learners is becoming fiercer. As a result, the university philosophy of law has not received adequate attention in application for codes in law education.

Our country has three official law universities: Hanoi Law University (founded in 1979), Ho Chi Minh City Law University (founded in 1996), Hue University of Law (founded in March 2015) and a *half-law* university called University of Economics and Law under Vietnam National University, Ho Chi Minh City. The Faculty of Law under the Vietnam National University, Hanoi is also identified as an *independent, legal entity* law training institution and is also moving towards the establishment of a Law University directly under the Vietnam National University, Hanoi. In addition to specialized law schools, a race to open law and economic law codes of most higher education institutions nationwide, from universities under the Ministry to local universities to public universities is happening. For example, statistics show that the number of higher education institutions offering law education is more than 90, some of which are not suitable for law education, such as Da Nang University Branch at Kon Tum, Hanoi University of Culture, Banking Academy, Ho Chi Minh City University of Foreign Languages and Informatics, etc. Currently, there are many universities that are also *urgently* preparing documents to apply for Economic Law education in order to *earn a little* of the target in law academic discipline. Most higher education institutions, when opening a law major, are more interested in ensuring that their application for education code(s) *meets* the requirements of the Ministry of Education and Training for enrollment, rather than paying attention to learning and building a training philosophy before application. However, in the long run, the uncontrolled development and increase in the number of higher education institutions with specialized law education will lead to many unpredictable consequences on quality of education, ability to find jobs, maintaining the philosophy of higher education in law, etc. The reason is because the ability to enroll





university students in law majors is decreasing and, therefore, in order to engage learners, there may be cases where higher education institutions accept to relax admission conditions as long as learners are enrolled and learners can easily take graduation. Any disproportionate competition between the quality and identity of the legal academic discipline and guaranteed enrollment and income targets, etc. directly affect the development, protection, education, and training of legal reasoning.

Secondly, despite the significant increase in the number of law higher education institutions, the structure, objectives and content of legal education programs in Vietnam are largely influenced by the law education programs of Hanoi Law University, Ho Chi Minh City University of Law and Faculty of Law directly under the Vietnam National University, Hanoi, but legal reasoning as an essential content of the philosophy of law professional training has not been clearly defined. The structural variation of education programs is actually *chasing* market demands (according to educational administrators). In the structure of multidisciplinary training programs of Economic Law, higher education institutions try to *assign* a number of modules to create jobs for the *redundant* number of lecturers in some majors without enrollment. This approach has faded, even changed the nature of law and therefore, the philosophy of higher education in law is also very difficult to develop. The causes of the current situation include:

- Except for official law schools, the law academic discipline in other higher education institutions is only a small branch in the overall structure of training disciplines/specialties of higher education institutions, so the law academic discipline must also contribute to the realization of mission, including ensuring enrollment, creating jobs for lecturers in some faculties with difficult enrollment, etc. Therefore, the leaders of law faculties in these higher education institutions are required to accept the demands of *curriculum flexibility* from the school leadership, but, in fact, the voice of the faculty leadership is able to defend fundamental requirements of the legal academic discipline.
- As law is just one of countless training disciplines of universities, especially those aiming for multidisciplinary or specialized universities, in the process of law training, the curriculum or instructional methods of law education is also more or less affected. The interaction between training disciplines via lecturers from other disciplines has the advantage of helping students develop more perspectives on legal issues associated



with social issues such as the economy in general and economic majors in particular. However, the *mixture* of perspectives, approaches, and ways of thinking can lead to a loss of identity and specificity of the legal academic discipline. In other words, the philosophy of law education may be overshadowed or overwhelmed by the philosophy of other training institutions, disciplines/specialties.

- Except for leaders of law universities, the vast majority of university leaders with law education do not have legal expertise, so the perspectives, understanding and requirements for the law academic discipline in their development strategy is really a huge obstacle in protecting and maintaining the philosophy of law academic discipline, especially the arrangement of modules to help increase students' legal reasoning.

Thirdly, the direction for training legal reasoning in law schools has not yet been determined, although the content and instructional methods of law schools are undergoing drastic changes in order to break away from the thinking of previous socialist legal system.

The introduction of new content and instructional methods into Vietnam from countries around the world with the expectation of bringing the law academic discipline closer to the trends of other countries as well as linking law educational activities to legal practice and reasoning. However, this process is still largely influenced by political orientations, because law is, after all, just a tool of the government, of political orientations, so the state's and ruling political party's point of view is still very important, causing a direct impact on the philosophy of higher education, including legal reasoning. Just like Thailand—a country under the influence of the civil law system, classes focus on studying laws and practical legal documents rather than judgments. Teaching is completely non-Socratic, which means that real-life situations associated with application of positive law are emphasized during group discussions. The fact that professors also tend to separate the classes as per the lecture and discussion style (PHAM, 2011) requires that the content and methods of bachelors of law education must be changed towards the uniform development of both legal knowledge, law practice skills and legal ethics among students (PHAM, 2011).

In Vietnam, if in the previous period, higher education often trained and provided educational products based on what they had, i.e., focused on equipping academic knowledge, currently, higher education institutions are required to provide educational products (human resources) based on social needs. It also means that the content of education programs not





only reflects the *academic quality* of higher education institutions, but also conveys or includes necessary skills for students to transform from academic knowledge to career skills as well as job positions. In current context, it can be seen that when developing education programs, each higher education institution wishes to expand its strengths to build a *large-scale* education program with many *unique* modules. Many higher education institutions even import education programs, teaching and learning materials from leading prestigious higher education institutions in the world to apply to their human resources training, but the results (learners) do not meet the requirements of professional practice. Therefore, the participation of enterprises in development of education programs is the criticism and suggestions (even in written form) of knowledge units, module structure, and order of modules (related to the prerequisites) as well as the requirements for practice skills must be (at least and necessarily) reflected in the structure of education programs.

According to Australian experiences in legal education, based on the perception that legal methods and concepts can only be fully understood when one understands how to apply such methods and concepts in real life. Law schools focus on providing theoretical knowledge of jurisprudence, practical knowledge and practical skills, and at the same time creating a close and intimate relationship between law lecturers and practitioners is particularly emphasized in law schools. Necessary skills to be equipped for students include legal analysis skills, including regulatory analysis and case law analysis; legal reasoning skills—essential for lawyers and presentation skills (NGUYEN, 2012).

Legal reasoning becoming an indispensable philosophy of bachelor of laws education in Vietnam

Vietnamese law academic discipline is in the process of systematic rethinking, especially after the ideology, approaches, and education of bachelors of laws in countries under the former socialist system have been revealed too many limitations. In the context of open space plus a huge source of legal science data, each lecturer and learner can immediately obtain resources to compare the arguments officially introduced and disseminated in Vietnam. Thoughts and views that are not suitable for current social life will have no basis for existence. In current higher education institutions of our country, the arguments between innovation via acquisition and legal quintessence have been summed up and passed by tradition around the world with ongoing thought of protecting outdated opinions. In that context, a number of studies require the reform of law educational activities towards





developing legal reasoning for learners, but in fact, making law educational activities more closely linked with the social life. It is no longer appropriate to try to maintain differences in legal reasoning and scientific reasoning in the context of globalization, when business transactions have expanded the space (in the digital economy) with a multitude of bilateral, regional and global trade agreements. Law education must be a process of forming common legal reasoning in all countries and territories. Cultural factors, traditions, thinking patterns, and ways of thinking should only be recognized as characteristics that can directly affect the education of bachelor of laws, meaning innovation of bachelor of laws education based on facts and law, i.e., answering the question: How is this rule applied in this case? (NGUYEN, 2010, p. 38).

One of the decisive factors in training, education and forming legal reasoning is to facilitate learners to have legal experience through training forms of mock trials, clinical legal education (NEW YORK STATE JUDICIAL INSTITUTE, 2005) currently having a lot of influences on legal education in Vietnam through the establishment of law practice offices so that students have an opportunity to interact with practical legal issues such as community law, legal consultation, mock trials (TRAN, 2014), etc. It can be affirmed that law educational activities following this trend can help students to detect legal problems and raise legal questions related to facts and events that have taken place based on legal regulations. A legal question usually contains three elements: i) A reference to (or indication of) a governing law that answers the questions raised; ii) Legal questions associated with the facts of a case; and iii) Legally significant events means the ones that raise legal questions and affect the results (NGUYEN, 2010).

Attempts to simulate the practice of law can be seen as a trend to link training with practice in the legal field. At a higher level, if permitted, the doctor training model can be applied to legal training activities. This activity can only be done if legal education is linked with law education like the model of some countries. However, in the context of the legal environment in Vietnam, the separation between the professional activities of lecturers is the biggest obstacle for lecturers in higher education institutions with legal education because they are not directly practicing independently like a licensed physician to open a private office. Regarding the training model in the legal field, there is a clear distinction between degree training (undertaken by higher education institutions) and certificate training as a condition for being granted a law practice certificate or to carry out the necessary procedures to be recognized and granted a practicing certificate (carried out by the Judicial Academy). In





addition, the trend of human resources self-training for the People's Court (through the Court Academy), the People's Procuracy (through the Procuratorate University) and in the future, the Vietnam Bar Federation and many other professional associations are in movement to transfer practice skills training from the Judicial Academy to themselves, making the development of legal reasoning in training institutions more and more difficult.

From the above analysis results, we would like to draw some main conclusions as follows:

Firstly, in Vietnam, legal reasoning and legal reasoning training are still quite unobvious from training objectives to program structure as well as module content and instructional methods. Therefore, according to the author, developing a legal training philosophy needs to start from shaping the content of legal reasoning and requires expressing legal reasoning in each legal field as well as in the use of instructional methods in the legal field. However, this is “a big gap in law practice because it is a very big question, but it is difficult to find a full answer in the study and research process of schools and institutes related to the legal academic discipline” (NGUYEN, D. D, 2016, p. 10, our translation). The lack of legal reasoning in the philosophy of law education has led to a lack of highlighted differences in legal reasoning compared to other social sciences, especially in the context of research, study and instruction of law in the current interdisciplinary and multidisciplinary direction. This requires law higher education institutions to soon shape and build the content of legal reasoning as a core content, across the goals, program structure, and instruction methods in law education programs.

Secondly, the proliferation of law majors at non-law-specialized higher education institutions has forced all law-enforcement higher education institutions to face the problem of maximizing enrollment or shrinking their training size, or withdrawal of law training license—which happened to many market-driven industries (for example, the general economy, the financial and banking industry backed to 10 years ago) with many *scenarios* or directions to address unqualified higher education institutions for law training when the market is saturated:

- The trend is not positive, higher education institutions are forced to relax all conditions and have to use many *tricks* to enroll students. These higher education institutions need to *live* before discussing or talking about training philosophies, which are very luxurious things in a degree-based social environment. If this situation persists,



granting law bachelor's degrees will entail many consequences, including cognitive distortions of many output products. Educational institutions in this state focus on size growth based on the principle of *short-term view* and enrollment marketing at the commune level (in fact, many higher education institutions are trying to go to most of the remote districts to enroll). This is a competition at the *bottom* level and warning of a systemic collapse, because law students are the ones who *diagnose* and *cure* legal issues for organizations and individuals in society. If *legal doctors* are in distorted thinking, *dumb*, *deaf* state due to insufficient or no training in legal reasoning, this will lead to unpredictable consequences showing that justice is not enforced or *facilitating* acts of trampling on justice, reason and fairness.

- In the positive direction, according to market rules, the more law schools exist, the more opportunities for learners and society to choose reputable and quality higher education institutions, especially the ability of learners to find jobs or create their own jobs. If a higher education institution knows how to firmly develop a philosophy of law education through education and training in thinking methods so that learners can flexibly deal with on the basis of legal documents; situations, events, justice, common sense and fairness. The essence of this perspective is to turn the training process in university lecture halls to the context where a student solving an issue for citizens has to apply all his knowledge and arguments to defend vulnerable people, or to argue with a judge or prosecutor to protect the law or justice. The harmonious combination of background legal knowledge with necessary skills so that learners can make judgments and propose solutions independently from their perspectives and evaluation of legal events, manage, select, apply the law and plan the solutions to solve the above case in the most beneficial way for the subjects that they are playing or representing. *Career* experience is the best way to train legal reasoning for law students.

With the above two plans, each higher education institution with law training needs to seriously choose a development direction, because it will determine the near future as well as the education and training career of every lecturer. According to the author, we should consider legal reasoning as an indispensable content in the philosophy of law education. At the same time, it is also necessary to require each lecturer to try to embody that philosophy in the training process associated with each content as well as teaching method, so that we can build a solid foundation for the identity and brand of the law academic discipline in overall



training majors. All calls-to-action about improving the quality of teaching and the prestige of higher education institutions on the educational map will become void if our educational products have no or unclear legal reasoning.

Thirdly, in order to have a basis for building legal reasoning content in the philosophy of law education, according to the author, it is necessary to:

Firstly, seriously and systematically evaluate the law education program in order to ensure its consistency (on a national and international scale) so as to have a basis for comparing, learning, and studying the development and implementation of legal reasoning in the philosophy of law education. The openness in the concept of the state and law nature is a real opportunity for each law training institution to develop legal reasoning in the philosophy of law education.

Secondly, the content of legal reasoning in the philosophy of law education set out in the structure of the law program must include:

(i) Basic legal knowledge, directly related to the state and law development since the state formation. As a result of this knowledge, learners must answer questions:

- Where does the law come from? What is the rationality of the law?
- What are the criteria for evaluating a good legal system?
- What are the differences in the history of formation and development of legal phenomena between countries in the world and typical theories of state and law? And in the contemporary world, what lessons can countries learn from the historical development of the state and the law?
- What is the framework for legal reasoning?
- What is the fundamental conceptual framework based on which studying and understanding the state and the law is conducted?
- What are the typical methods and rules of legal reasoning?
- What skills are required to study law (essential content for first-year students)?

(ii) Legal specialized knowledge is quite diverse and should be consistent with higher education institutions at home and abroad for student recognition and exchange. This is very important in the globalization of higher education, because failure to consistently identify the names of courses will make learners confused in the new educational environment (especially



abroad). Therefore, it is necessary to review the names of modules, and also to determine the content of legal reasoning in each module. Students must have opportunities to apply the legal reasoning framework, necessary skills to apply law education flexibly and vividly in each module. Therefore, the content of legal reasoning in legal academic discipline is formed naturally and as a result, the philosophy of law education is realized vividly.

(iii) Essential skills for legal reasoning. This is the most difficult issue, because we—the generations who are trained in an academic way—are not linked to legal reasoning (except for those who are trained abroad at different levels). At the same time, the current Vietnamese legal framework has *blocked* all opportunities to practice law as *legal doctors* at law offices and companies of law lecturers (except lecturers of nonpublic universities). Therefore, legal reasoning obtained by lecturers is mostly academic and little accumulated during their teaching career with consultation or representation of organizations and individuals. These thoughts are sometimes not really accurate because the outlook is always directed towards *teacher standards*. Developing practical lecturer resources to cover this shortcoming of academic faculty is the optimal solution, which both ensures to link training with practice and connect higher education institutions with businesses as a bridge between training and the labor market and career opportunities for learners.

Fourthly, organizing national conferences on legal reasoning education, training and formation as a basis for unifying the content and methods of implementing legal reasoning in law education programs. This is a transparent solution that needs to be implemented quickly because in the context of law education in terms of scale (i.e., focusing only on enrollment), the unification of legal reasoning in education is considered a long-term orientation, as the basis for ranking higher education institutions in the field of law reasoning. In other words, the orientation of legal reasoning training in the law discipline is the preparation for long-term development of the law academic discipline when the *market* enters the saturation stage in all training systems.

Final Considerations

Legal reasoning, a factor that distinguishes bachelor's degree training in law and bachelor's degree training in other fields of science, is an important basis for learners to actively participate in the creation and justice protection. Ensuring a balance between theoretical legal reasoning and professional legal reasoning becomes a requirement to amend and supplement education programs. In addition, creating connections and engaging law



practice organizations in program development and training activities will help learners form and differentiate with theoretical legal reasoning. The process to form legal reasoning in bachelor of laws education programs is also the process to make differences and gradually approach the standard of law bachelor education according to the general trend of higher education institutions in the world.

REFERENCES

DAU, C. H. Some basic issues of legal reasoning. *In*: NGUYEN, H. A.; VU, C. G.; NGUYEN, M. T. (eds.). **Legal reasoning: Theory and practice**. Hanoi: Vietnam National University Publishing House, 2016.

SCHAUER, F. **Thinking Like a Lawyer: A New Introduction to Legal Reasoning**. Cambridge: Harvard University Press, 2009.

INSTITUTE OF LINGUISTICS. **Vietnamese Dictionary**. Hanoi: Literally Encyclopedic Dictionary Publishing House, 2010.

STELMACH, J.; BROZEK, B. **Methods of Legal Reasoning**. New York: Springer, 2006.

KRUSE, K. R. Legal Education and Professional Skills: Myths and Misconceptions About Theory and Practice. **McGeorge Law Review**, Sacramento, v. 45, n. 1, p. 8, 2013. Available: <https://scholarlycommons.pacific.edu/mlr/vol45/iss1/2/>. Access: 16 Dec. 2021.

SILECCHIA, L. A. Legal Skills Training in the First Year of Law School: Research? Writing? Analysis? Or More? **Dickinson Law Review**, v. 100:2, p. 245-301, 1996. Available: <https://scholarship.law.edu/cgi/viewcontent.cgi?article=1268&context=scholar>. Access: 16 Dec. 2021.

NEW YORK STATE JUDICIAL INSTITUTE. **Introduction to Clinical Legal Education**. New York: New York State Judicial Institute, 2005. Available: <https://www.nycourts.gov/ip/partnersinjustice/Clinical-Legal-Education.pdf>. Access: 16 Dec. 2021.

NGUYEN, B. T. Legal reasoning in legal advice and litigation of American lawyers and suggestions for Vietnam. *In*: NGUYEN, H. A.; VU, C. G.; NGUYEN, M. T. (eds.). **Legal reasoning: Theory and practice**. Hanoi: Vietnam National University Publishing House, 2016.

NGUYEN, D. D. Legal reasoning is about the rights of stakeholders. *In*: NGUYEN, H. A.; VU, C. G.; NGUYEN, M. T. (eds.). **Legal reasoning: Theory and practice**. Hanoi: Vietnam National University Publishing House, 2016.

NGUYEN, H. A. Thinking in law application – reflection from a legal case. *In*: NGUYEN, H. A.; VU, C. G.; NGUYEN, M. T. (eds.). **Legal reasoning: Theory and practice**. Hanoi: Vietnam National University Publishing House, 2016.



NGUYEN, N. B. **The talent of a lawyer, a manual of those who want to become a lawyer.** Ho Chi Minh: Youth Publishing House, 2010.

NGUYEN, V. Q. Law education at law schools in Australia: Some analysis and experiences for law education in Vietnam in the context of integration. **Jurisprudence Journal**, v. 11, 2011.

PHAM, D. N. **Methods of studying jurisprudence.** Hanoi: Public Security Publishing House, 2014.

PHAM, H. Q. Legal education in Thailand and some experiences in Vietnam. **Jurisprudence Journal**, v. 5, 2011.

STANFORD LAW SCHOOL'S IRAQI LEGAL EDUCATION INITIATIVE (ILEI); AMERICAN UNIVERSITY OF IRAQ, SULAIMANI (AUIS). **Forms of Legal Reasoning.** Stanford: ILEI; AUIS, 2014. Available: <https://law.stanford.edu/wp-content/uploads/2018/04/ILEI-Forms-of-Legal-Reasoning-2014.pdf>. Access: 16 Dec. 2021.

TRAN, V. D. **Legal education through mock trials, a handbook for law lecturers and students.** Ho Chi Minh: Vietnam National University Ho Chi Minh City Publishing House, 2014.

VU, C. G.; NGUYEN, P. H. Critical thinking and the legal academic discipline. *In:* NGUYEN, H. A.; VU, C. G.; NGUYEN, M. T. (eds.). **Legal reasoning: Theory and practice.** Hanoi: Vietnam National University Publishing House, 2016.

WIZNER, S. Is Learning To "Think Like a Lawyer" Enough? **Yale Law & Policy Review**, New Haven, v. 17:583, 1998. Available: <https://digitalcommons.law.yale.edu/cgi/viewcontent.cgi?referer=https://www.google.com.vn/&httpsredir=1&article=1369&context=ylpr>. Access: 16 Dec. 2021.

How to reference this article

GIANG, V.T., AND MY HUONG, V.T. Legal reasoning in bachelor of laws education in Vietnam. **Nuances Est. Sobre Educ.**, Presidente Prudente, v. 32, e021010, jan./dez. 2021. e-ISSN: 2236-0441. DOI: <https://doi.org/10.32930/nuances.v32i00.9122>

Submitted: 10/09/2021

Required revisions: 10/10/2021

Approved: 13/11/2021

Published: 28/12/2021

