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Talkin' 'bout law's generations: Intergenerational Differences in Reading Legal Texts

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Talkin' 'bout law's generations: Intergenerational Differences in Reading Legal Texts

Abstract
This paper describes a project I am currently undertaking which seeks to find out if generational differences affect the reading of legal texts, with the potential to compromise the possibility of textual integrity in law. I am calling this concept 'intergenerational interpretative dissonance'. Using an empirical study (which is currently on foot), the project is drawing on 'pop culture' generations to undertake a quiz-style survey to explore differences in knowledge, history and meanings about non-legal events in order to establish what non-legal knowledge is shared (or not) by different generations of lawyers. The survey is being used to provide background to inform interviews with individuals which will interrogate whether historically or generationally specific knowledge, analogies and allusions are shared by different generations of lawyers through the reading by participants of an extract of a small pool of cases which rely on historically-specific examples. It is expected the study will find that 'intergenerational interpretative dissonance' will affect the reading of cases, and is thus likely to suggest that communicative integrity between different generations of lawyers cannot be vouchsafed. Moreover, any generation of lawyer will be affected by it, thus suggesting that our reading of cases outside our own time and space can only ever be partial.

Keywords
legal, texts, bout, talkin, law, generations, intergenerational, differences, reading

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Abstract

Talkin' 'bout law's generations: an empirical and jurisprudential investigation into the reading of legal cases by different generations of lawyers

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This paper describes a project I am currently undertaking which seeks to find out if generational differences affect the reading of legal texts, with the potential to compromise the possibility of textual integrity in law. I am calling this concept 'intergenerational interpretative dissonance'. Using an empirical study (which is currently on foot), the project is drawing on 'pop culture' generations to undertake a quiz-style survey to explore differences in knowledge, history and meanings about non-legal events in order to establish what non-legal knowledge is shared (or not) by different generations of lawyers. The survey is being used to provide background to inform interviews with individuals which will interrogate whether historically or generationally specific knowledge, analogies and allusions are shared by different generations of lawyers through the reading by participants of an extract of a small pool of cases which rely on historically-specific examples. It is expected the study will find that 'intergenerational interpretative dissonance' will affect the reading of cases, and is thus likely to suggest that communicative integrity between different generations of lawyers cannot be vouchsafed. Moreover, any generation of lawyer will be affected by it, thus suggesting that our reading of cases outside our own time and space can only ever be partial.

This project is testing the belief that lawyers read cases solely using 'legal methods', and thus challenges the accepted view that law's interpretive processes are made concrete through the adoption of rule-based techniques. So references in judgments to concentration camps (which prompted this project) cannot be understood, or will only be partially understood by lawyers who do not understand the denotations and conceptual shorthand those examples imply. If the project shows that different generations of lawyers read cases differently because as a result, the possibility is open that that haphazard, everyday misconceptions and trivialities can actively shape reasoning and interpretation not contemplated by conventional accounts of the behaviour of legal actors.