The Exploration of the System of Law Undergraduate Practical Curriculum in the Background of Judicial Examination Reform

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Abstract. The judicial examination has had a profound influence on law undergraduate education since it reformed in 2008. By the end of 2015, the state has put forward the objectives and tasks of improving the national legal professional qualification system. In August 2017, the judicial examination was reformed in the draft of the 8 judicial amendments, such as the Judge Law. This puts forward new requirements for the cultivation of the practical ability of law students. Judicial examination is the connecting link of undergraduate education of law and legal occupation. However, to cultivate legal professionals is not the only goal of undergraduate education of law. It is necessary to strengthen practical teaching and construct the legal undergraduate practice curriculum system.

Introduction

Since 2002, the national judicial examination system has selected legal profession specialized personnel who meet the legal requirements of national and social selection. According to the regulations, newly appointed judges, procurators, lawyers and notaries must pass the national judicial examination. Since 2008, the Justice Department has given the school juniors the qualifications of Judicial Examinations, and thereafter, the proportion of undergraduates apply judicial examination has increased. At the end of 2015, the General Office of the CPC Central Committee and the General Office of the State Council issued the Opinions on Perfecting the Legal System of National Uniform Legal Profession. The "Opinions" put forward the objective task and important measures to improve the national unified legal professional qualification system. In August 2017, the draft amendments to the eight laws, such as the Judge Law, which was submitted to the Twenty-ninth Session of the Standing Committee of the Twelfth National People's Congress, were amended and the National Uniform Judicial Examination was amended as "National Uniform Legal Profession Qualification Exam". Judicial examination (legal profession qualification examination) as the bridge and the link to the legal profession and legal education, is the exam which the vast majority of legal science specialized students will take part in and strive to pass, is the inspection of the education of law achievements, and is the examination of the professional qualifications of law students and learning effect.[1] The major reform of the judicial examination system has put forward new requirements for the cultivation of the practical ability of law students. There are some problems in the setting of law undergraduate education curriculum in our country, and there is a link between the law undergraduate education curriculum and judicial examination (legal profession qualification examination). Under the background of judicial reform, it is of great value and significance to explore the legal undergraduate course system.

The Effect of Judicial Examination on Legal Education

Brief Introduction to the Background of Judicial Examination Reform

The judicial examination system has been implemented in China since 2002, and in 2008 the university was granted the judicial examination of junior students. At the end of 2015, it issued the Opinions on Perfecting the Legal System of National Uniform Legal Profession. The promulgation of this Opinion is of great significance to the law of education. First, the content of the Opinion controls the personnel who take part in the judicial examination, and it clearly put forward the non-law college
majors and above diploma candidates need to obtain a Juris Master degree, Master of Laws degree and above in order to take the exam. Second, the Opinion pointed out the requirements to increase the number of cases of test questions, which means that the time of law education needs to be improved and the various law schools should increase the practice of teaching and case teaching. Thirdly, it is also important that the issue of this Opinion, which defines the judicial examination as the national unified legal professional qualification system, raises the status of the judicial examination.

**Positive and Negative Effects of Judicial Examination on Legal Undergraduate Education**

The judicial examination has a far-reaching influence on the law undergraduate education, which is positive and negative. On the positive side, one of the qualifications for the application is "bachelor's degree in law in higher education or non-law major in higher education with legal expertise". This requires law undergraduate education to be closely connected with the law profession, which is conducive to further reform and development of law undergraduate education. From the reverse side, in order to meet the requirements of law undergraduate career in law, undergraduate education of law will become a professional education and exam-oriented education, which has violated the basic requirements of the higher education law.

The judicial examination is the link between the law undergraduate education and the legal profession, but the training of the legal professional is not the sole objective of the law undergraduate education. Undergraduate education of law is neither turned a deaf ear to judicial examination, to avoid serious disconnection between undergraduate education of law and the legal profession, and to avoid students struggling with the normal education and vocational training classes. Also, undergraduate education of law cannot be rushed to the judicial examination, to avoid becoming a test-oriented education and vocational education. Our country uses the judicial examination system to unify the entry standard of the legal profession, and the law graduates are the most important and the most competitive source of the judicial examination. The law undergraduate education should take the opportunity of judicial examination reform, construct the law undergraduate practical course system, and train the students' legal practice ability.

**Significance of the Law Practical Curriculum**

To improve the teaching quality of law, to cultivate legal compound talents with solid theoretical knowledge and innovative ability and practical ability has always been the goal of legal teaching. Legal practice curriculum meet the requirements of higher education curriculum. Training mode of modern colleges and universities should be open, and this openness is required to change the past closed and rigid culture method, strengthen the combination with society and let the students participate in social practice as much as possible.

**Helping to Construct Students' Practical Knowledge**

The main purpose and task implementation of the law practical curriculum is to create a "situational" and "collaborative" interactive environment for the construction of students' individual practical knowledge in order to promote the harmonious development of law students' "cognition, emotion, motivation and behavior". The development of "cognition" here refers to the change of knowledge and ideas. One of the biggest characteristics of legal knowledge is changeable, that is, some laws may have been modified while the students have not yet out of school. Practical curriculum allows students to grasp the dynamics of judicial practice and gain new knowledge and new experiences. At the same time, the concept of modern rule of law only in actual judicial practice and exploration can be gradually established.

**Helping to Stimulate Students' Interest**

The teaching optimization theory is that: the essence of teaching is "learning" rather than "teaching". Teaching process is an interactive process between teachers and students and it is a cooperative inquiry process in which the teacher is as the leadership and the students is as the main body. In
practical courses, teachers are no longer superior authority, but the enlightener guiding students to learn. By discussing style, problem-based, interactive teaching methods, as well as social practice, social surveys and other forms to improve the students' interest in exploring, which affect the students' cognitive process, stimulate students' critical thinking, and enhance students' ability of interpretation of new knowledge, reasoning and application. In addition, because of different knowledge and different personality characteristics of each student, these will affect the way they eventually choose to solve the problem. Therefore, heuristic teaching method in practical courses is helpful for students in learning according to their aptitude, and to enhance the effectiveness of the results.

Helping to Cultivate Students' Legal Skills and Thinking Method

The traditional legal education pays more attention to theory study, emphasize the logic self-sufficiency of knowledge system itself, which prone to be high score low-energy phenomenon. However, the practice of law is a highly creative work, is not a simple process of logical reasoning. The process from abstract justice to concrete case justice, from universal legal norms to the specific facts of the conduct and conclusions of law, is in need of creative effort. Perhaps this is the most challenging legal professional activities and the most intoxicating work. Practice courses of law school students focus on practical skills in objectives and take ability as standard. In the course of discussion with students, teachers assume a variety of possibilities, guide students to discover the relevant facts, legal norms, a variety of variables and the complex relationships between various factors, and inspire students to use their brains thinking.

Helping to Enhance the Legal Professional Ethics and Social Responsibility of Students

Practical law courses enable students' value judgment and ethical choice manifested in the interaction between lots of specific things and problem context. Through the participation of the course, it could not only enrich the students of the legal practice of knowledge, but also enhance their legal professional ethics and social responsibility, so that they become aware of and care for the community, and become citizens committed to social development.

Reflections on the Current Situation of Legal Practical Courses

In the law undergraduate education, the research on the cultivation of students' legal professional competence is basically isolated and dispersed, in the primary stage of self-study and self-practice. The basic requirements of the practice of law practice, connotation, different arrangement of practical teaching methods on the role of talent training and the convergence between each other did not form a systematic theory, far from reaching the level of guidance and practice.

Irrational Distribution of Theoretical Courses and Practical Courses in Law

China's current law education pays much attention to theory. Although the practical courses are an important part of law courses, but its proportion of total credits are generally shockingly low. The law institutions attach great importance to the establishment of law theory and the rationality of the structure between courses. Law practice teaching is mostly attached to the position of law theory course and cannot provide more practical platform for the formation of law practice teaching theory.[5] Present undergraduate education of law is generally lack of practical teaching link. The law education of our country is mainly taught in class, which emphasizes the teaching of theoretical basis too much, and seldom considers students' practical application of these theoretical knowledge and social reality demand. This results in the dilemma of our country's law education and judicial practice. The so-called case teaching stays largely on the paper analysis so that it is hard to truly cultivate the students' practical ability and also causes a number of law school graduates excellent in the school examination results while helpless facing practical legal problems. This is the disconnect problem discussing for years between undergraduate education of law and legal profession.
Low Proportion and Total Number of Practical Courses

In addition to judicial internships and graduation thesis, some schools have also introduced a moot court, legal clinics, case study and other practical courses, but the proportion is relatively low and the total is still pitiful. The total credits of these practical law courses are accounted for just about 6% of all required credits. The vast majority of colleges and universities arrange practice courses in the form of concentrated practice, mainly judicial internship and thesis writing, only in the last year of undergraduate course teaching. Some schools with good teaching condition add in moot court legal clinic in addition to the judicial internship and thesis. However, the total amount of practical courses is still very small.

Certain Difficulty in Supervising and Managing the Practical Course of Law

The flexibility of legal practical courses brings a greater degree of difficulty in supervision and management, and it easily becomes a mere formality once negligent. For example, the process of writing graduation thesis is mainly a process for students to soak in the library, with few quantitative analysis and research. Although Concentration of several months of judicial internship can allow students to experience in a real space-time handling of the case, but the court and procurator ate have strict rules, where most students are only responsible for binding files, along with evidence, trial hearing and other matters of the work. It is hard to stimulate students' active participation and easy to make judicial practice become a mere formality. The relevant supporting system and measures of practical legal teaching are not in place.

Construction of Legal Practical Curriculum System

Applying Case Teaching Method

Case teaching method is of great benefit at the initial stage of the learning procedure to help students understand the profound and abstract laws. In the traditional teaching mode, teaching teachers in the teaching process of theoretical knowledge, in order to understand the needs of students, will often use cases to analyze. But due to classroom time constraints, teachers often simply describe the basic facts of the case. Due to the abstractness characteristics of legal norms and legal theory, and the lack of social experience and experience of undergraduate, therefore, in the process of teaching material content, it should be easily understood, and use a perceptual case to parse profound legal norms, theory and thought, etc. It should avoid echoing what the books say. Also, it should avoid cases to be disconnected and separated with corresponding legal norms or other things. Therefore, in selecting cases, the topic selection should be carried out around the teaching content. The case choice is the premise and foundation of case teaching, which is also the key to realize the target of case teaching. [6]

Strengthening Moot Court Teaching

The problems in the teaching of moot court are mainly formalization. In the moot court teaching, teacher should not become the provider of the correct answer and avoid by all means use his thinking mode to imprison the minds of students, but should be capable of arousing students to think on their own. In preparation for the moot court, the teacher provides detailed material to students and guides the students to do meticulous preparation according to the case material. In the process of simulation training, it should emphasized that although it is only a kind of mock trial exercises, but the simulation process is not only a performance and not entirely confined to fixed "script", but according to the actual situation of the trial resourceful. At the end of the summary, the teacher should point out the advantage and disadvantage, success and failure in mock trials, and evaluate the students’ trial role in the mock. [7]
Learning Advanced Mode from Foreign Countries

Foreign countries all distinguish the training mode between ordinary higher education focused on basic qualities and occupation vocational training system focused on professional skills, although they have different high-quality legal professionals training mode. We should increase the proportion of legal professional competence curriculum in the law undergraduate education to improve students' practical operation ability of using legal knowledge to solve practical problems. Therefore, legal education in China should pay attention to exercise students' vocational skills, to realize the effective connection of legal education and judicial examination.[8] Clinical legal education is a kind of very good legal education mode in the foreign legal education system. In recent years, some colleges of law in our country have gradually introduced and learned from this kind of teaching mode. This kind of teaching mode is to introduce clinical education pattern of medical students in clinic practice into the teaching of the law. Its outstanding characteristic is that students play the role of lawyers under the guidance of teachers to solve the practical legal problems in real by knowledge, and to help the people encountering practical legal issues in the reality.

Emphasizing on Practice Supervision Work

The main problems existing in current practice are a mere formality, short time period, indifference of internship units, lacking supervision of instructor, etc. To solve this problem, we should first try to arrange students for internship and distribution of internship units. Secondly internship schedule can be more flexible, can be divided into two batches, junior and senior summer semester, so it can reduce the pressure of receiving internships of internship units and meet the needs of different students. Thirdly, we should improve the efficiency of internship management and establish regular internship reporting system. Finally, we can do a good job of communication with internship units to provide students the opportunity to contact with the real cases.

Conclusion

The success or failure of Chinese law education is related to the process of the rule of law in China. The undergraduate education of law should not ignore the judicial examination. Also, it should not scramble for the judicial examination to avoid itself to be exam-oriented education and vocational education. Undergraduate education of law should take advantage of opportunities of the judicial examination to reform, build undergraduate practical curriculum system of law and develop the students' ability of law practice. Under the background of the new round of judicial examination reform, law education should seize this opportunity to carry out the corresponding reforms. Law education should focus on cultivating legal talents with a sense of justice, deep legal literacy and specialization knowledge, superb legal technology and good at creative thinking. And according to this idea to adjust the curriculum and teaching methods. [9]

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