The Teaching of Commercial Law with the Combination of Knowledge Teaching, Theoretical Development and Practical Training

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Keywords: Commercial Law Teaching, Teaching method, Classroom teaching.

Abstract. Commercial law is part of the 16 compulsory courses of law undergraduates. Only by combining the characteristics of the course, the teaching method can get a good effect. Taking into account the complexity of its content, the depth of its theory, and the characteristics of practical and technical, comprehensive teaching methods including knowledge teaching, theoretical development and practical training should be applied in commercial law teaching.

Introduction

“The basic purpose of law education is to enable people to understand the law, have jurisprudent thinking and the ability to resolve disputes” 1. For undergraduate students, legal education is not only to educate students to understand the law, but also to train them to solve the legal problems and enhance the practical ability. Commercial law is a discipline with a high degree of practicality. Therefore, at the undergraduate level, teaching objectives should be more emphasis on students' ability to grasp the basic knowledge and practical application, including teaching students to understand the basic connotation and principle of commercial law and training students to use the principle and system of commercial law to think about market problems and to solve the problems of market transactions.

It is fair to say that the current classroom teaching mode, which is based on the theory of teaching, logical deduction and explanation of rules, is difficult to achieve the teaching objectives we mentioned above. In order to make students master the basic theory of commercial law and use the commercial law regulation skillful, commercial law teaching must choose appropriate teaching methods be combined with the characteristics of the course itself.

The characteristics of Commercial Law Course

The commercial law is one of the sixteen compulsory courses for the undergraduates of law, and the characteristics of this course are very obvious compared with other law courses:

Miscellaneous Contents

There is no uniform commercial code in our country at present. Therefore the commercial law course has relatively scattered system as well as complicates content.

1Wang Zejian: The legal thinking and the civil case
Generally Commercial law course includes two parts, General Expositions and Specific Provisions. General Expositions is theory-based, including the principle, evolution, the relationship between commercial law and other legal departments, business entity, business activities, business registration and other content of commercial law. Specific Provisions is about commercial conduct, composed of six relatively independent legal departments including company law, bankruptcy law, negotiable instruments law, securities law, insurance law and maritime law.

**Profound Theory**

Commercial law is composed of a number of branches which are both connected and significantly different, and each of them can be a self-contained system. When learning this course, students not only need to use different legislative principles, but also to understand the different legal system. The profound theory is not easy for students to understand. Students often find it difficult to adapt to the conversion, which affects the learning and teaching efficiency of the course.

**Characteristics of Practical and Technical**

Commercial law is the result of adapting to the development of commodity economy and servicing the various forms of profit-making transactions. Therefore, the specific trading system, trading practices and commercial rules in commercial law have obvious characteristics of professional and technical. Specialized practical experience or specialized training is required if you want to be able to be familiar with notes, finance, accounting and tax knowledge. For undergraduate students who have no professional and practical experience, it is impossible to understand and master that kind of professional knowledge with general life experience.

**Knowledge teaching: Focus on Theoretical Knowledge**

In the commercial law course, the theoretical knowledge which contains a large number of basic concepts and basic theories take up a large part. For the part of theoretical knowledge, it is an effective method through the way of classroom teaching to teach students more knowledge and information. In order to make the students understand the theoretical knowledge more deeply and improve the teaching efficiency, the following methods can be used in the teaching process:

**Comparative Teaching Method**

When explaining a point of knowledge, commercial law textbooks often carry on the elaboration of the category. However, when teaching a knowledge point, teachers should compare the related content. Through the comparison of several similar knowledge points, students could know and grasp the difference and connection of each knowledge point, and can achieve twice the result with half the effort. In addition, because commercial law is on the basic theory of civil law, the concepts related to civil law are also important when comparing with the relevant knowledge to deepen the students' understanding of the knowledge.

For example, when explain the “joint and several liabilities” at the circumstance of company not been established, the “promoters’ responsibility” and the “legal personality denial” in company law should be compared as well as “liability by shares” and “joint liability” in civil law.

By guiding students to analyze the differences and links, students can understand the reasons for the company law provisions more deeply, so as to change the passive learning into active learning.
**Participatory Teaching Method**

The basic concept and basic theory of commercial law is boring and difficult to understand. In the classroom, students will lose interest in learning in a passive acceptance situation if there is only the teachers’ simply teaching. And students understanding and reception of the legal theory and knowledge will be relatively slow. In order to make up for the shortage of classroom teaching, fully mobilize the enthusiasm of the students, participatory teaching method should be used in the explanation of basic concepts and the basic theory. One of the most common ways is asking questions and discussion. In teaching a specific concept or concrete theory of the commercial law, teachers could put forward questions on the basis of the key and difficult points. Ask individual students to answer questions, and then ask other students to comment on the former students' responses.

Classroom discussion requires teachers and students to prepare ahead of time. The teacher determines the topic of discussion and the students in groups or through other ways to assign the task. In the classroom, teacher should organize while the student led discussion. The way of questioning and discussion can lead students to think actively, deepen understanding, consolidate knowledge, and also effectively save the limited teaching time and teaching resources.

**Theory Expansion: the Way of Reading & Writing**

Commercial law course has a lot of theory, includes not only the general theory but also theories in other department laws. System theory study for it is very important to cultivate students with the necessary theoretical knowledge, but many theories for students' learning and understanding are key point and the difficulty, for this problem, research type teaching method can be regarded as a kind of effective teaching methods. The systematic study of theory is very important to cultivate students' theoretical attainments. But many theories are too difficult for students to learn and understand. For this problem, the research teaching method is an effective teaching method.

Research teaching method is a kind of teaching method that combines classroom teaching and scientific research. “The characteristic of this method is to cultivate students' initiative and improve students' ability of independent thinking. Through the process of classroom teaching, teachers can guide students to be interested in research, help them acquire the relevant information and data, teach them using correct research methods, and give the evaluation to student’s study achievement etc. Research teaching method has the advantage that other teaching methods cannot catch up with, such as cultivate students' ability to study and shape the modern legal spirit and value. But its limitation is that students need to have a certain basic knowledge, a more open access of information seeking, and some of the research time at their own disposal”.

**Guiding Students to Study Academic Papers**

Commercial law course has a corresponding basic theory and practice of hot issues, including general commercial law, company law, securities law and the law of bills. It is very necessary to guide students to study academic papers in order to make them understand and grasp the theory.

Firstly, at the beginning of the course the teacher should choose an academic paper which is related to the course and worth to study, and send it to every student.

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Secondly, students are required to read the paper in accordance with the following requirements:

a. carefully read the article.
b. search with other related papers and study.
c. write reading notes in respect of the paper (including title, author, main content, the main idea of other scholars’ views and his own point of view)
d. make slides about the main content of the reading notes

Thirdly, 10 minutes before the end of each course, a student should explain the paper’s main content to the whole class through slides. Teacher could explain the difficulties encountered in the process of teaching, and guide the class to discuss.

Guiding Students to Write Course Thesis

In the teaching of commercial law, it is also an important research teaching method to guide the students writing course thesis. On the basis of the study of academic papers, students may choose to study the relevant topics or their own interest related issues in commercial law. Selecting a topic is a process of active thinking and continuous learning. So teachers should guide the students to choose topics rather than giving a certain topic. Through the topic selection process, students can continue to think deeply and widely consult relevant materials, and gradually improve the ability of independent thinking.

At the undergraduate level, the main purpose of research teaching method is to cultivate students' correct scientific research methods and preliminary scientific research ability. So thesis writing should be located in a specific problem, making a comprehensive and in-depth understanding after the access to information and collation of the references. It doesn’t require the student to have the innovative point of view, as long as they can make documents and references into a 3000-5000 words article which is organized and logical. After the completion of the thesis, teachers should have a careful summary on the strengths and problems and explain to the students in class time.

The thesis writing process is focused on mastering students’ basic thesis writing skills, inspiring them to think creatively, and helping them grasp of the relevant theory of commercial law.

Practical Training: Based on the Documents and Non-litigation Cases

Commercial law is formed on the basis of specific trading system, trading practices and business rules, and has strong characteristics of technical and practical. The lack of background knowledge has greatly influenced their understanding of the commercial law system. Therefore, increasing the perceptual knowledge is a very effective teaching method for students to make up the professional knowledge.

Collecting Documents to Strengthen Students' Perceptual Knowledge

The department laws of commercial law are strongly technical and professional, needing appropriate background knowledge. (Especially in the field of negotiable instruments law, insurance law, maritime law, company law) For the above courses, teachers should gather corresponding documents and materials to strengthen the student's perceptual knowledge, such as bills’ specimen, insurance contract, and related picture of ship and so on.

When it comes to the most important part of commercial law theory, company law, it should be particularly given great consideration. Documents and materials including business license of a corporation, organization code certificate, tax registration
certificate, articles of association, resolutions of the shareholders' meeting, the resolutions of the board of directors, the resolutions of the board of supervisors, and the equity transfer agreement should be collected in order to enhance students' perceptual knowledge. Through reading the documents mentioned above, students can deeply understand the system of commercial law and enhance the practical ability.

**Case Teaching Method Combined Litigation Cases and Non-litigation Cases**

The case teaching method which is widely applied in the teaching of law is also very popular and important in the teaching of commercial law. Case teaching is not only to enhance the visualization of the teaching, but also to cultivate students’ operate ability and legal thinking. In case teaching, teachers should choose appropriate cases, take the theory from the real case and use the theory to start the case analysis. Case analysis can strengthen students’ comprehension and understanding of commercial law system, as well as improve students' practical ability.

The teaching of commercial law should include the transmission of the theory, the influence of legal belief, and the training of logical and legal thinking. In the process of commercial law learning, students have to learn not only the commercial rules itself, but also the basic facts, otherwise it will be difficult to understand the causes of the transaction risk and use the existing legal system to resolve disputes. For this reason, case teaching of commercial law should expand the internal teaching function, in order to realize the combination of the legal knowledge teaching and the market knowledge teaching. In case selection, a large number of non-litigation cases should be extended in addition to the general litigation cases.

For example, the recent teaching reform of commercial law in Waseda University, Japan, trying to teach students about social background knowledge related to trading law. In the teaching of commercial law, a large number of non-litigation cases, which can reflect the whole picture of market transactions, can be used to make the students understand the market transaction knowledge while learning the facts of the case. The study of non litigation cases can help students understand the legal risks of the transactions and the social demand of the commercial system, as well as realize the organic combination of legal knowledge and the introduction of market transactions.

The commercial law course teaching methods mentioned in this paper is based on the author's experience in the teaching practice of commercial law. It is based on the existing teaching equipment, teaching content and the actual level of the students. Each teaching method has its advantages and disadvantages and there is no fixed teaching method which is suitable for all conditions. In the selection of teaching methods, we should consider the actual conditions and make reasonable choice and the optimization combination. So that we can achieve functional complementarity of several teaching methods and overcome the shortcomings of each other.

**Conclusions**

Compared with other legal courses, commercial law course has the following characteristics: (1) the content is complicated, (2) the theory is deep, (3) endowed with high practicability and technology.

For the part of theoretical knowledge in the commercial law course, the comparative teaching method and the participating teaching method should be used.

For the key theory of commercial law, we should use research teaching method to guide the students to study academic papers and write course thesis.
Combining litigation cases and non-litigation cases teaching is also useful to raise better innovation consciousness and practice skill of students.

Acknowledgement
This research was financially supported by Xi'an social science planning fund. Project number is No.16F81.

References


