The Dilemma and Outlet of Curriculum Construction in Legal Clinic  
—The Perspective of Local Application Teaching University

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Abstract. Legal clinic courses of local application teaching universities should be strengthened according to their own conditions and local circumstances. The plight of curriculum construction includes unclear positioning, imperfect teaching conditions, inadequate source of cases and imperfect evaluation system and so on. The legal clinic courses should be positioned as a compulsory course in law specialty. It should be to improve teaching conditions, to expand the source to enrich the teaching content, to establish and perfect the system of curriculum evaluation.

Introduction

In the 1960s, several law schools in the United States pioneered the education form of the law clinic. This form of education was introduced into China in 2000. Law schools of seven universities, including Peking University, Tsinghua university and East China University of Politics and Law, first started legal clinic courses.

As China is a traditional civil law country, law education pays special attention to the study of basic legal theory and the cultivation of legal reasoning and interpretation ability, but ignores the cultivation of many professional legal skills. The law clinic course is a kind of law education method combining theory knowledge and practice skill. It is different from ordinary classroom teaching and law students handle legal cases under the guidance of teachers, The new and unique teaching form of law clinic course is welcomed by more and more law students. This course which helps to consolidate legal knowledge, improve legal professional skills and cultivate legal professional ethics, is worth studying and popularizing.

Construction of Legal Clinic Courses in Local Applied Teaching Universities

At present, more than 100 law schools in local colleges and universities have opened legal clinic courses in China. China's applied teaching universities pay special attention to training students' ability to apply theoretical knowledge in practice. It should be said that the construction of legal clinic curriculum is consistent with the goal of running an applied teaching university.

There are mainly three modes of setting up law clinics in local applied teaching universities. (1) Built - in legal clinics. Legal clinics are set up in colleges and universities relying on the school's legal aid station, students carry out legal affairs such as legal consultation and agency litigation under the guidance of law professional teachers. (2) External legal clinics. Legal clinics are set up outside universities, such as in law firms, and students are trained with legal practical skills under the guidance of lawyers and other legal practitioners who are not teachers. (3) Simulated legal clinic. Professional teachers lead students in legal vocational skills training and students learn those legal vocational skills in simulated environment. Each of the three models has advantages and disadvantages. Many schools have adopted different models according to their own situation.

For the specific content of teaching, each school also arranges according to its own actual situation and local construction needs. For example, local colleges and universities in Fuzhou can implement the national One Belt And One Road strategy and focus on the construction of legal clinics mainly involving civil and commercial cases, according to the construction requirements of Fujian Free
Trade Zone. The course content may include answering legal advice, providing legal advice, acting as a litigator, etc.

Dilemma and Reason Analysis of Curriculum Construction

Unclear Course Orientation

The unclear definition of legal clinic education by educational administrative departments is an important reason why legal clinic education cannot fully play its role. Some colleges and universities regard law clinics as part of the activities of student associations, lacking the guidance of professional teachers, and have not formulated teaching programs, training programs, curriculum programs, etc. Some colleges and universities have included legal clinics in their courses as a sign of teaching reform, but they have not actually opened them. Some colleges and universities regard it as a theoretical course, and teachers teach legal skills only through classroom teaching. The unclear orientation of the curriculum stems from the lack of understanding of the curriculum. First of all, the educational administrative department of our country has not made clear the nature of the course. Secondly, the educational and legal circles in our country still have different opinions about the establishment of the course, and some even explicitly oppose the establishment of the course. Thirdly, many local application-oriented universities have not introduced the legal clinic course for a long time, and have not fully understood the teaching method and the role of the legal clinic course in China's legal education.

Imperfect Teaching Conditions of Courses

The teaching conditions of the course mainly include teachers' conditions and material conditions. Compared with those research universities and law schools, local applied teaching universities have a relatively small number of teachers, especially those who meet the teaching requirements of practical courses in law clinics. Although in recent years, local colleges and universities attach importance to the training of double-qualified personnel and the number of law teachers with legal professional qualifications has increased, it is still difficult to meet the needs of the construction of legal clinic courses. In addition, many schools lack financial investment in legal clinic courses, such as relatively independent consulting sites, archives, mock courts and related office equipment. One of the important reasons why the teaching conditions of the course are not perfect is the lack of attention to the course. In case law countries, legal education pays special attention to the study of case law and the cultivation of lawyers' practicing skills, and legal clinic education is naturally highly valued. Our country belongs to the continental law system countries, and the law circles have always taken the classroom study of law theory, the understanding of law provisions, and the reasoning of law as the focus of teaching. The legal professional skills training as induction learning content after graduation.

Inadequate Sources of Curriculum Cases

The legal clinic is a practical course. If there is no case source, it will certainly affect the development of the course construction. For this reason, some schools rely on their own legal aid stations to ensure the source of some cases in this course. However, depending on the legal aid station of the school alone, the number of cases is still unstable and the type is single. Some colleges and universities have taken a different approach to carry out "simulated legal clinic" education, that is to say, adapting even virtual cases as the teaching content of legal clinic education. In addition, some colleges and universities have opened "external legal clinics" to carry out legal clinic courses in combination with off-campus teaching practice bases, hoping to solve the problem of insufficient case sources.

Incomplete Evaluation System of Curriculum Teaching

Different schools have different teaching evaluation methods for legal clinic courses. Some colleges and universities adopt the form of writing papers and submitting legal documents. Some colleges and universities still adopt the traditional closed-book examination method for the
examination of this course, and the test questions include multiple-choice questions, noun explanations, short-answer questions, and essay questions. The focus of such a test is still on students' mastery of knowledge points. However, it is difficult for the legal clinic curriculum to reflect the students' mastery of legal professional skills and legal professional ethics. In addition, many schools lack standards for evaluating the teaching effect of teachers in law clinics. The most important reason why the evaluation system is not perfect is that some universities are not clear about the training objectives of the legal clinic curriculum. China's legal education has always placed too much emphasis on theoretical knowledge of law and neglected practical skills training.

The Way Out of Curriculum Construction

To Position the Legal Clinic Course as a Compulsory Course for Law Majors

With the gradual integration of the two legal systems, legal education in China should pay more attention to the cultivation of legal professional skills. Clinical legal education should be formally incorporated into the curriculum system of legal education in China in order to achieve the goal of promoting social justice and cultivating legal persons with more social adaptability.[2] For the applied teaching university, it is also shouldering the important task of training local applied talents. At present, practical teaching is far from meeting the needs of personnel training, and its teaching effect is not ideal. The legal clinic course introduces real cases to allow students to handle cases in person, which not only consolidates the theoretical knowledge of the legal profession, but also trains their legal professional skills, and can also cultivate their good legal professional ethics. Its unique form of education cannot be replaced by other practical teaching such as case teaching, simulated court teaching and professional practice. Therefore, relevant departments and schools should position the course as a compulsory course for law majors. On this basis, universities and academic circles should strengthen the research on legal clinic courses, for example, how to ensure the high quality of the courses, how to strengthen the management of the courses, how to effectively evaluate the teaching effect and so on.

To Pay Attention to the Construction of Legal Clinic Courses and Constantly Improve Teaching Conditions

The law department of the local applied teaching university should not only pursue the passing rate of the judicial examination, but also train graduates who are familiar with legal knowledge and laws, and should also deliver legal workers with noble professional ethics and good professional skills to the society. The informal standard for the teacher-student ratio in schools with legal clinics is 1:8.[3] Clinical teachers are the key elements in the institutionalization of clinical legal education.[4] The school should arrange double-qualified teachers with rich practical experience to form a teaching team to undertake the teaching work of the course. The teaching work of legal clinics is heavy. So teachers who undertake the work of legal clinics should calculate a reasonable workload and cannot calculate the class hours according to the standards of classroom teaching. In addition, in order to carry out the course smoothly, the legal clinic course should be equipped with the necessary material conditions. For example, an independent legal clinic will be set up so that students can receive clients in the office like doctors and receive counseling from clients and learn about the case, setting up special archives to manage case files, a mock court will be set up to facilitate students' pre-trial preparation and training. As one scholar said, clinic teaching is refined and consumptive and must be based on more material support.[5]

To Expand the Case Source and Constantly Enrich the Teaching Content of the Course

Legal aid is closely related to "legal clinic education" and they are often intertwined.[6] Legal aid can not only serve the society, but also increase students' chances of learning and exercising. However, it is not enough to rely solely on the legal aid stations in colleges and universities. Colleges and universities should establish closer ties with legal aid centers all over the world in order to get
more cases. They should also take the initiative to contact the consumer protection association, women's federations, trade unions, communities, neighborhood committees, petition offices, labor bureaus and other departments to provide legal support to some vulnerable groups. The school should expand its off-campus practice base, especially cooperate with some law firms to train law professionals, and can employ lawyers with rich practical experience as part-time teachers in law clinic courses. The law clinic course offered by law firms has its unique advantages. Students can participate in many commercial cases, intellectual property cases and non-litigation cases in law firms so that students can receive more comprehensive training in law clinic courses.

To Establish and Improve the Evaluation System of Legal Clinic Courses

Education evaluation is one of our means to improve teaching effect, and the real purpose of local applied teaching universities is to promote the development of students and cultivate useful talents in society. We should clarify the training goal of legal clinic education: not only to consolidate students' theoretical knowledge through practice, but also to improve students' legal professional skills and cultivate students' legal professional ethics and social responsibility. The evaluation of legal professional skills should be based on the basic skills that the legal profession needs to possess, including legal analysis and reasoning skills, legal search skills, fact-finding skills, communication skills, advisory skills, negotiation skills, skills in prosecution and other dispute resolution procedures, organization and management skills of legal practice, etc. And The scope of the evaluation should cover the whole process of the case, including the evaluation of the preparatory work for the case, the evaluation of the case handling plan, the evaluation of the case discussion and reflection, and the evaluation of the summary stage, etc.

Conclusion

In recent years, the construction of law clinic courses in local teaching universities has achieved fruitful results, but many difficulties have also been encountered in the process of advancing. Therefore, the academic community should pay attention to and jointly study and solve these problems. The law department of the local applied teaching university should strengthen the legal clinic curriculum construction according to its own conditions and local conditions.

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References


