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The Reform Strategy of Legal Education in China

Shiwen Zhou*

I. PROBLEMS IN CHINESE LEGAL EDUCATION

First, traditional legal education does not encourage creative thinking by students. Traditional Chinese legal education consists of teachers on the platform speaking and students in the audience listening—the “spoon-feeding” method. Teachers are the protagonists; students are passive recipients of legal theory. There are few discussions between teachers and students and examinations are a test of memory rather than of analytical and reasoning abilities. This makes it difficult for students to cultivate the ability to think independently.

Second, the traditional teaching model is rigid, outdated, and detached from actual practice. Our legal education attaches the most importance to teaching theory. This focus on theory means improving students’ thinking, reasoning, and practical skills is neglected. By focusing on teaching theory and not teaching application of the theory, students develop a theoretical understanding of legal theory, but lack the ability to apply it. Students also rarely have the opportunity to be exposed to actual practice and understand the application of the law. This creates obstacles to the study of law and later the work of students who then cannot adequately meet the needs of building the legal system.

Third, traditional legal education ignores students’ vocational skill training and building of a sense of professional responsibility. Traditional legal education not only ignores students’ practical training, but also neglects their professional responsibility training.

Fourth, traditional legal education does not pay attention to the social service functions of the law. “Legal aid” is one of the social service functions of the law, but Chinese traditional legal education is almost totally detached from “legal aid.”

II. THE MODERN LEGAL EDUCATION MODEL

Modern legal education has two components: academic development and practical training. It is difficult to really learn the law without some practice of law. Therefore, countries around the world have been actively exploring new and diversified teaching methods to promote the improvement of the teaching of law. The methods being used include:

- a) *Lecture*. A common, essential method used in legal teaching.

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- b) *Case Method*. Teachers analyze and discuss actual cases to guide students to an understanding of legal theory and principles.
- c) *Moot Court*. Teacher input is necessary to training students, but students also learn through doing. The method is highly comprehensive, often involving the application of several courses at the same time; therefore, the guidance of teachers is essential.
- d) *Discussion*. The method helps enhance students' enthusiasm, initiative, and creativity, in order for students to seek consensus and access new knowledge through discussion, but in an atmosphere of intense debate. It can also train students to analyze and solve problems, and exercise independent and unconventional thinking.
- e) *Dialogue*. This method involves a verbal exchange of questions and answers between teachers and students in the classroom. The method is different from a simple classroom quiz; teachers focus on difficult issues and guide students to actively think and participate.
- f) *Intuitive*. Multimedia and other modern teaching tools transform traditional information on the blackboard into audio-visual information, illustrate multimedia messaging, change traditional teaching methods, and improve teaching quality and efficiency.
- g) *Clinical Legal Education*. Clinical legal education arose in the United States in the 1960s as a new law school teaching method. Students in "legal clinics," under their teachers' guidance, provide advice to clients, "diagnose" their legal problems, and provide them with ways to solve the problem.

III. HOW CHINA SHOULD IMPROVE ITS LEGAL EDUCATION

As China reforms the legal professional curriculum and its teaching method, its goal should be student-centered, teacher-led instruction using a two-way teaching method. Modern teaching methods, such as audio-visual teaching and Moot Court should be used. There also needs to be reform in the evaluation system; the content of examinations should test students' understanding of legal theory, but must also test their ability to apply legal theory as will be required of them in practice. The following subsections contain considerations that should be kept in mind when establishing the new teaching system.

A. *Case Method*

The case method uses the idea that mastering certain cases causes students to think, analyze, research, and propose solutions to the problem, nurturing students' comprehensive legal knowledge. Law teachers should pay attention to the following aspects of this method: (a) Choosing the appropriate cases based on

content; (b) Cleverly organizing the case discussed; (c) Correctly explaining the reasoning of the cases; (d) Encouraging critical thinking as the main evaluation and assessment mechanism.

B. Moot Court

- a) *Moot Court*. Moot court requires the selection of appropriate cases, holding a moot court, explaining the provisions of relevant laws, and analyzing the inadequacy of these legal provisions, so that students grasp the basic principles of law and are trained with practical understanding, analysis, and problem-solving abilities.
- b) *Student participation*. Students participate in moot court through both their roles, participating in the simulation as judges and attorneys, and the discussion, by conducting an extensive and full discussion of the case.
- c) *Timely Guidance*. Throughout the simulation process, teachers are a ready guide to discover and rectify any problems that arise.
- d) *Reflection*. After the simulation, summed up by the teachers, students write a final report on participating in moot court.

C. Clinical Legal Education

Clinical legal education has been introduced from the United States in recent years. There are ten well-known University Schools of Law opening “legal clinic” courses with the support of the United States’ Ford Foundation. Relying on legal aid organizations, rights centers, law firms and other forms of legal clinics, students are exposed to real clients and deal with real cases, studying and applying the law in practice. The purpose of clinical legal education can be summed up in two ideas: first, developing and training students’ professional skills, second, providing legal assistance to socially vulnerable groups, which imparts in students a sense of social responsibility and career honor.

- a) *Legal Clinic Problems*. It is without a doubt necessary to create legal clinics in Chinese legal institutions, but the feasibility needs to be considered. Methods that have been successful in similar institutions in other countries must not be blindly followed.
- b) *Teacher Problem*. Clinical legal education requires a very low teacher-student ratio. Based on the implementation of the “one-on-one” direct guidance, teachers need to provide a significant amount of time and energy. From this, the development of clinics has become plagued by a bottleneck. There are two methods to alleviate the bottleneck: first, the education system should be reformed to

encourage teacher participation in legal clinics, second, strengthen outside relationships and make full use of social resources by employing senior legal experts and experienced judges, prosecutors, or lawyers as visiting professors.

- c) *Financial Implications.* Clinical legal education requires a high investment including, but not limited to, the cost of establishing the clinic, the necessary funding of cases of the students, and the instructor's pay. Overall, financing is a large problem.
- d) *Standards.* It is necessary to regulate Chinese clinical legal education. I propose a "Clinical Legal Education Professional Committee" as a way of introducing national curriculum guidance to schools for implementation.
- e) *Teaching Methods.* Clinical legal education must move away from the traditional model and use diverse and enriched methods of teaching. Only in this way can we truly train students to deal with the issue of practical legal skills. Clinical legal education courses can be divided into classroom teaching and practical operation. Teaching through questions, dialogue, interaction, simulation-teaching methods precedes basic skills training and the practical operation in legal clinics. Students accept the case, conference with the parties, investigate the case, and analyze the law. Students also mediate or litigate on their own, with teachers only helping as needed. After finishing the case, teachers then concentrate on feedback. This professional skill training is particularly important to teach students not only to act as a genuine legal professional, but also to think like a legal professional.
- f) *The Evaluation Problem.* Clinical legal education evaluation does not work like traditional legal education with closed book examinations. Instead, schools should establish an evaluation system based on the specifics of the clinic system. Four different evaluations should be considered: student self-evaluation, customer evaluation, student peer evaluation, and teacher evaluation.

D. Experimental Evidence Course

Evidence is vital to law. Understanding and mastering discovery, discovery methods, and techniques are indispensable. In the traditional law school curriculum, there is evidence, criminalities, evidence technology, and forensic courses related to the investigation and review of evidence. We should reform the curriculum and establish criminal and civil evidence courses. We should set up laboratory evidence, initiate the discovery, extraction, and review of criminal and

civil evidence, and identify experiments. Through these experimental operations, the student is trained to discover, identify, and review evidence.

E. Bilingual Teaching

China in the twenty-first century needs a large number of legal and foreign language proficient personnel; bilingual legal teaching is necessary to meet this demand. At the same time, bilingual legal teaching can help students transform legal thinking and cultivate within them an ability to consider and analyze legal issues with a global perspective.

F. Courtroom Skills Courses

Courtroom debating skills are essential to the success or failure of litigation. Therefore, I believe that debate skill training should occur throughout the legal education.

G. Legal Education and the National Judicial Examination

Closely integrating legal education with the National Judicial Examination is an important characteristic of legal education in Germany. China has set up a unified national judicial examination system, but legal education is not closely integrated with the exam. This must be addressed.

In short, changing the concept of legal education and improving the quality of legal professionals are inevitable requirements of economic development and social progress. This is needed for China's accession to the World Trade Organization (WTO) and is key to deepening legal education reform. The current university legal education is far removed from legal practice with serious deficiencies in teaching practice. The result is students with low professional skills. After graduation, they often have difficulty entering the job market. Therefore, we must adjust the focus of traditional legal education, look to the west, and introduce methods that have proven successful.

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