



Practical Dilemmas and Reform Paths of Clinic-Based Legal Education

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Abstract. With the further advancement of legal education reform, clinical legal education, as an emerging teaching model, has gradually attracted increasing attention. It aims to improve law students' legal skills and social practice capabilities through practical experience. However, after more than 20 years of development, current clinical legal education in China is confronted with various problems of "acclimatization", including flaws in curriculum design and positioning, and the lack of specialized textbooks. These issues not only restrict the development of students' practical abilities but also affect the quality and fairness of legal services. By analyzing the causes of these dilemmas, the reform of clinical legal education in Chinese universities should start from reshaping the theoretical and practical education system, ensuring the development of specialized textbooks, and other aspects, so as to explore a path of clinical legal education suitable for China's localized development.

Keywords: Clinical Legal Education; Legal Practice; Curriculum Design; Specialized Textbooks; Teaching Reform

1 Introduction

Influenced by the international reform of legal education, some law schools in China have begun to explore approaches to practical legal teaching. In 1998, China University of Political Science and Law established the country's first legal clinic, marking the official introduction of this educational model into China. At that time, legal clinics focused primarily on integrating legal theory with practice, providing students with opportunities to participate in actual legal services and helping them apply the knowledge they had learned in practical settings. Legal clinics have not only played a vital role in teaching but also actively engaged in social services by providing legal aid to vulnerable groups, thereby strengthening the social responsibility of the legal profession. After the Lawyers Law of the People's Republic of China came into force in 2004, the society's demand for legal services has been on a steady rise, creating a favorable environment for the development of legal clinics. The 2010s witnessed the rapid development of clinical legal education in China. Many law schools began to attach importance to and improve clinical legal courses, incorporating them into the compulsory or elective curriculum for law majors. The introduction of the clinical legal teaching model into

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China has not only impacted and influenced the traditional legal teaching model in our country but also prompted legal education circles to explore new paths for reform and development.

2 Practical Dilemmas in the Development of Clinical Legal Education

Although the clinical legal courses offered by universities across China have inherited a relatively sound institutional system, they still fail to break away from the traditional framework of legal education. Traditional legal education has long been regarded as a part of liberal arts education. Since law was truly introduced into China, it has been treated as an embodiment of absolute truth. Therefore, legal education has shown a tendency of scientism and rationalism, emphasizing the understanding and analysis of legal principles while neglecting systematic practical training or professional skill development.^[1] The cultivation of legal professional ethics and morality is obviously insufficient. With the acceleration of the country's legalization process, however, the law major has once become a "red flag major" in terms of employment prospects. Graduates from law schools often find it difficult to take up jobs matching their major in the short term. Consequently, universities and academic circles have realized the importance of practical-oriented clinical legal education.

2.1 Flaws in the Curriculum Design of Clinical Legal Education

Introduced into China nearly 20 years ago, clinical legal education has now been widely applied and promoted in universities nationwide. Nevertheless, most universities have not truly attached importance to this educational model. They merely offer clinical courses in form rather than giving play to their due role in essence. Some universities even formalize clinical courses, treating them as an extension of classroom teaching or equating them with professional internships, thus ignoring the core significance of clinical legal education—improving students' practical operational capabilities.

Clinical legal education has always been regarded as a practical teaching model that supplements traditional teaching methods. In undergraduate legal education, clinical legal courses are usually arranged in the junior and senior years, mostly in the form of elective courses.^[2] The teaching of these courses is mainly undertaken by in-school teachers or by prosecutors, judges, or lawyers with rich practical experience. By sharing their practical experiences, they explain various problems encountered in legal practice to help students understand the actual application of law. In addition, they also teach skills for drafting legal documents. However, despite the fact that this teaching model provides students with opportunities to get in touch with legal practice, in terms of specific teaching design, many universities have not really established on-campus or off-campus legal clinics, nor have they provided sufficient practical platforms for students. In effect, this practice has transformed a course that should focus on practical operations into mere theoretical teaching. Although students can acquire certain legal knowledge and experience through these courses, such knowledge is mainly derived from teachers'

lectures rather than practical operations. As a result, students are unable to apply the knowledge and skills they have learned in real scenarios, making it difficult to effectively improve their professional capabilities.^[3]

This classroom-centered teaching method lacking practical operations, although seemingly meeting the requirements of curriculum setup, fails to achieve the true purpose of clinical legal education. The essence of a legal clinic lies in enabling students to directly participate in case handling and legal affairs in real or simulated legal environments, thereby cultivating their legal thinking, practical operational capabilities, and professional ethics. If clinical courses are confined to theoretical lectures without involving practical operations, they will not achieve the expected teaching effect. This curriculum model may lead students to only understand law at the theoretical level, leaving them unable to cope with complex and ever-changing practical legal issues, and ultimately resulting in the phenomenon of "armed with theories but incompetent in practice".

In summary, the current design and implementation of clinical legal courses in Chinese universities have significant limitations, lacking genuine practical content. Although these "localized" clinical courses inherit the framework of clinical legal education in form, they deviate from its original intention in content and methods. Only when universities attach greater importance to the practical nature of clinical courses, establish a more comprehensive legal clinic mechanism, and provide more practical opportunities, can students accumulate real practical experience in the learning process and enhance their professional skills.

2.2 Lack of Specialized Textbooks

At present, clinical legal courses in China have obvious deficiencies in textbook systems and teaching methods. Especially compared with theoretical teaching, clinical legal education has not yet formed a specialized and systematic textbook framework. This not only affects the unity and standardization of teaching but also hinders students from achieving comprehensive improvement in professional skills in judicial practice. In current teaching practice, although clinical legal education covers both classroom teaching and practical education, the integration of these two aspects is far from satisfactory. In the practical education part, students exercise their professional skills by participating in real cases and handling legal affairs as entrusted parties. These skills are rarely involved in theoretical teaching but are crucial for legal careers.^[4] Classroom education, on the other hand, aims to impart various practical skills required in legal professions to students, such as how to interview clients, conduct effective negotiations and mediations, and respond to emergencies in judicial procedures. These professional skills are difficult for students to acquire in theoretical courses but are irreplaceable in their actual legal careers. However, due to the lack of systematic textbooks, the content of classroom education in current clinical legal courses usually relies on teachers' personal experience and subjective judgment, leading to randomness and uncertainty in teaching content.

Secondly, most textbooks used in China's legal education are compiled around various departmental laws, and the case designs in these textbooks are mostly highly

abstracted and simplified products. Although these cases are based on real legal scenarios, they are preset with a single "correct answer", which makes the presented content unable to fully reflect the complexity and uncertainty in legal practice. Real legal cases are often full of variables and have multiple possible solutions, but the cases in textbooks, due to excessive simplification, cannot provide students with such diversified thinking training. This model severs the connection between theory and practice, leaving students inadequately equipped to handle complex real-life cases.

More importantly, many textbooks often force cases into specific theoretical frameworks to illustrate certain legal principles. This not only affects students' flexible mastery of basic legal principles but also undermines their creativity in dealing with real cases.^[5] The rigid combination of legal principles and cases makes case analysis in teaching unable to accurately reflect the variability in practical operations, resulting in students' failure to effectively grasp legal thinking and practical skills. In other words, the cases in theoretical teaching strip away the complex contexts of legal practice, focusing only on the theoretical interpretation behind the cases while ignoring the true reproduction of diverse legal issues in real life.

In conclusion, the main problem facing current clinical legal courses in China is the lack of unified and systematic textbooks, which leads to randomness and uncertainty in teaching content. The existing textbook system still overemphasizes the simple combination of theory and cases, ignoring the complexity of real legal practice.

3 Analysis of the Causes of Dilemmas in Clinical Legal Education

When Chinese law schools first introduced clinical legal education, they almost completely copied American experience in both concepts and practices. The Ford Foundation provided support by funding Chinese teachers to study, train, and conduct research in the United States, supplying or translating American clinical legal education materials and works, sending American clinical legal education teachers to teach in China, and organizing seminars and exchanges between Chinese and American clinical legal education teachers and students. These efforts endowed early clinical legal education in China with a strong American character. However, products shaped under different political, social, judicial, and cultural backgrounds are bound to have their own differences and uniqueness.^[6] This is the main reason why clinical legal education in Chinese universities is facing the problem of "acclimatization".

First of all, China's legal education is rooted in a civil law system, which is in sharp contrast to the common law tradition of the United States. American legal education emphasizes understanding law through case studies, cultivates students' practical abilities, and attaches great importance to the adherence to and analysis of precedents. Against this background, clinical legal education has naturally become a reasonable teaching model, where students improve their legal skills and thinking abilities by handling real cases. However, influenced by history and culture, China's legal education has long tended to focus on systematic and theoretical discussions, emphasizing the logical analysis of legal principles. The content of legal education often centers on the

teaching of basic concepts and theories rather than the skills to solve practical problems. This conceptualist educational model makes clinical courses characterized by case-by-case operations face double conflicts in both concepts and methods, restricting their effective implementation.

Secondly, China's legal education generally lacks attention to practical rationality. The common law tradition holds that law is an art, and "the life of law does not lie in logic but in experience". Only legal professionals who have mastered "artificial reason" through long-term study and practice can acquire a true understanding of law. As stated, "the life of law does not lie in logic but in experience". Except for legal professionals who have mastered "artificial reason" through professional education, even the "wisest king" cannot be competent in legal affairs^[7]. In China, however, legal education has been labeled as a "science" from the very beginning, emphasizing the imparting of knowledge and theoretical discussions. This academic orientation restricts the cultivation of students' practical legal skills, resulting in a serious disconnect between theoretical learning and practical operations. Although the attention to legal professional skills has increased in recent years, many law schools still mainly focus on the analysis of legal principles and the interpretation of legal provisions, lacking effective training in students' practical capabilities. Therefore, the introduction of clinical legal education is bound to pose a challenge and impact on this educational concept, requiring educators to re-examine the goals and methods of legal education.

4 Reform Paths of Clinical Legal Education

4.1 Improving the Curriculum System Design of Legal Courses in Universities

The effective operation of a teaching system is inseparable from sound curriculum design. As a university course, clinical legal education also needs a supporting curriculum system. An important feature of clinical legal education is that what students do in the clinic is real legal work that lawyers engage in. In a "legal clinic", under the guidance of teachers, students provide legal services to clients in need, namely real parties involved in legal disputes.^[8] However, the "Clinical Legal Education and Moot Court" courses offered by most universities are mainly classroom-based, and students basically have no contact with real parties. Some scholars believe that it may be more accurate to name such courses as "Simulated Clinical Legal Education". The so-called "Simulated Clinical Legal Education" refers to the adoption of certain educational methods of clinical legal education without engaging in specific legal aid activities, mainly training students in skills for legal practice and other legal services in the classroom.

The course form of "Simulated Clinical Legal Education" has long existed in American legal education. The legal clinics established by American university law schools for legal education adopt various forms, which can be roughly divided into three types: The first is the in-house clinic, where students provide direct case representation services to relevant parties under the specific guidance of teachers. The second is the externship clinic, where students are placed in institutions outside the law school and engage in legal service work under the guidance of legal practitioners (mainly lawyers) who are not teachers. The third type can be called the simulated clinic, which adopts

some educational methods of clinical legal education, allowing students to learn legal practice skills and professional ethics in a simulated environment [3]. The first two types of clinics are also part of the resources and forces for legal aid, while the third type is more like a specific course in legal education, which only adopts the educational methods of clinical legal education without engaging in specific legal aid activities.^[9]

4.2 Promoting the Development of Specialized and Standardized Textbooks for Clinical Legal Education

To address the lack of specialized textbooks for clinical legal education, it is first necessary to clarify that the compilation of textbooks should be designed around the teaching objectives and content of clinical education. Clinical legal education has unique characteristics, and its flexibility and pertinence enable it to play an important role in cultivating law students' professional skills, professional ethics, and sense of professional responsibility. Existing textbooks often fail to fully reflect these characteristics, leading to certain limitations in actual teaching.

Therefore, the compilation of textbooks should not only meet current teaching needs but also adapt to changes in the legal industry, ensuring the timeliness and practicality of content. The compilation of textbooks should not become a constraint on the development of clinical legal education but should be continuously updated and improved with the development of clinical courses. An effective textbook for clinical legal education should include various professional skills required in the legal profession as well as the professional ethics that legal practitioners should possess.^[10] The content of textbooks should emphasize learning methods and skills, enabling students to flexibly apply the knowledge they have learned in practice and enhance their practical operational capabilities. To ensure the scientificity and practicality of textbooks, the joint participation of experts from both the theoretical and practical circles of law is crucial when compiling textbooks for clinical legal education. Experts from the practical circle can integrate their experience in judicial practice into textbooks, making teaching objectives more clear and helping teachers understand the key and difficult points in teaching. This combination can not only improve the pertinence of textbooks but also enable students to better cope with real legal problems.

Finally, a mechanism for continuous textbook updates and feedback is equally important. At the end of each semester, teachers should collect students' feedback on textbooks and evaluate their effectiveness and applicability. This feedback mechanism can timely identify deficiencies in textbooks and make adjustments and improvements to ensure that they always meet teaching needs.

5 Conclusion

Introduced into China for 20 years, clinical legal education has gradually gained increasing attention from law schools across the country as more and more universities offer relevant courses. The importance of strengthening practical legal education and cultivating legal practitioners has become widely recognized. The clinical legal

education model not only helps students master professional skills but also cultivates their legal professional ethics and sense of responsibility, enabling students to truly experience the professional qualities and sentiments of legal practitioners in practice, especially the basic moral requirement of safeguarding fairness and justice. However, since clinical legal education draws on the American educational model, differences in national conditions have brought many challenges to its development in China. To solve these problems and establish a clinical legal education system that conforms to the practice of legal education in China, it is first necessary to change the long-standing educational concept of "valuing theory over practice" and attach importance to the role of practical education in legal education. It is also essential to redesign curriculum plans that conform to China's national conditions and establish corresponding standardized systems. Although clinical legal education currently faces difficulties in concepts, systems, and operation, with the joint efforts of all parties, its development and improvement are promising, and a model of clinical legal education suitable for China's actual situation will eventually be formed.

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