

# On the Reform Route of Case Teaching Mode in the Applied Undergraduate Course of Law Teaching in China

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**Abstract**—In recent years, the innovation of law teaching method is one of the problems in the field of law, and it also caused the attention of the competent department of education and law education. Law case teaching is the most basic and applied teaching method in the teaching method of the new law. Through the application of the law of the case teaching of undergraduate course, combining with the requirements of the application of law, and there are six aspects of the rigid bottleneck: the current law education system, the lack of a unified system of legal case teaching, the practical teaching of legal case, the practical teaching of legal case. In order to realize the goal of legal vocational education in our country, we should reform the teaching of law case. The overall thinking of the reform includes four aspects: establishing the system of the system of curriculum and regulating the standard of the law case; absorbing the characteristics of the law of civil law system; drawing on the method of Socrates; introducing Confucius' heuristic teaching method. The understanding and application of the legal provisions in a real environment, which make students achieve the purpose of cultivating the ability to solve practical cases.

**Keywords**—application of law; case teaching; jurisprudence education; reform path

## I. INTRODUCTION

Before 1980s, the lecture teaching is widely accepted for the law teaching in China, which is necessarily related to Chinese legal system. Since the objective of legal professional cultivation is put forward in 21st Century, the general thinking of law teaching method should be realized via strengthening the practical teaching. All this make the legal case-teaching method emerge. Early founded by Socrates, the ancient Greek philosopher, case teaching method is initially used for: discussing, seeking for the debate point among students' opposing perspective, and then finding new idea from debates, concluding these content by applying inductive method to achieve the truth. This method applied in the teaching is under the teachers' guidance, using the case to organize students' learning and researching in accordance with the requirement of teaching objectives and content. In this way, students' analyzing, concluding as well as summarizing capacity is well

cultivated. In the year of 1870, case teaching method is introduced into the law teaching by Christopher Columbus Langdell, the Dean of law school in Harvard University. During the case teaching of law school in Harvard University, students can directly participate into the communicative learning. By reading the decision from the appellate court and the collected case report, students can not only learn some common law and law history in USA, but also get a better understanding of case judgment process [1]. At present, this teaching method is widely accepted in the American universities and colleges as well as many other countries. China is no exception.

The case teaching includes two processes. On the one hand: putting the traditional theory into law case. During the discussing, students can acquire the professional theory on law. On the other hand, Through the case analyzing and examining process, the spirit of reviewing on the practical issue can be developed, the consciousness on the practical issue can be enhanced, the reviewing method and skill can be grasped as well as the capacity of solving practical issue can be cultivated and improved. Therefore, as the breakthrough of traditional mode and a new banner setting up, case teaching method is not only an innovation of teaching method, but also a form of participatory teaching mode. Thus, compared with the traditional teaching mode with lecture-type, the case teaching method has the following two advantages: I. Similar to a career training of qualified lawyer and judge. Applying the case teaching method can cultivate students' capacity of analyzing and solving problems. II. Stimulating the study enthusiasm and consciousness in cognitive field. During the case discussing, students' capacity of debating and speaking ability, etc.

## II. SOLID BOTTLENECK OF EXISTING UNDERGRADUATE JURISPRUDENCE CASE TEACHING MODE

The reforming and exploration of case teaching mode with strengthening employment ability oriented to cultivate pragmatic talents of jurisprudence, has been the major topic in contemporary jurisprudence education. Its great importance is mainly shown as the following aspects:

First of all, enhance students' practical work ability. During the undergraduate jurisprudence teaching, fully and

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### III. SOLID BOTTLENECK OF CHINESE EXISTING UNDERGRADUATE CASE TEACHING MODE OF JURISPRUDENCE

effectively applying the case teaching, students' professional knowledge and skills can be enhanced, the experience on dealing with cases by actual legal department can be integrated with professional cultivation system of jurisprudence. In this way can the pragmatic training introduced by case teaching give into full play. The training is aimed at the thinking and pragmatic capacity cultivation on analyzing and solving program, strongly enhance students' professional quality and skills.

In addition, closely make the connection between the talents of jurisprudence with social requirement. In recent years, the higher education reforming is comparatively lagging behind the talent demand from market. The tradition of theory oriented and practice ignorance makes the contradiction between the supply and demand of colleges and employers, such as, during the undergraduate education, there are discrepancies between the teaching material, curriculum, teachers' teaching ability with the social actual requirement in different degree. All this lead to the condition that it is a long time needed to acquire the capacity of "breaking-in and adapting & applying" with professional knowledge and skills learnt in school into actual working after graduation for many students, so that they can meet the demand of actual position. This result in a period for talents training is needed for turning the graduation into a useful employer. Therefore, in the stage of popularization of higher education, the cultivation of practical talents of jurisprudence is playing more and more important role.

The practical talents of jurisprudence should have the strong practical capacity, creativity and service ability, as well as the ability of applying the theory learned at school into solving actual problem. During the cultivation of practical talents of jurisprudence, we should strengthen the capacity cultivation on service ability, keep the teaching content with the time trend, solve the employment status of students having high aim but no real ability as well as promote the seamless adapting between students ability and social demand. Only in this way can the employer easy to select and cultivate talents. All this can enhance students' actual working ability and ensure their successfully employment, prevent the result of self-denial resulting from their poor capacity of solving the actual problem and working obstacle reducing their confidence.

Finally, improve students' comprehensive quality. Through the case teaching mode reforming on enhancing employability cultivation, the learning process from theory to practice and overturn circulation process, can be shown in a positive trend with constant improving in level and sublimation of theoretical level. During this process, students' comprehensive quality has been improved on the technical quality, manipulation ability, etc. Meanwhile, the case teaching mode reform makes the students available to the positively technical training targeted, quickly get started, shorten the adaptation period from the college student to social person, as well as the cultivation and shaping of students' professional ethics and values.

#### A. *Low Level of Existing Jurisprudence System*

As the case teaching is initially prevailing in the countries with common legal system, Chinese scholars introduce this teaching mode under the background of traditional China regarding the lecture teaching mode with teacher proselytizing, instructing, dispelling doubt centered. The unconformities can never be avoided, among which, the most prominent controversy is that the agent oriented in Chinese existing jurisprudence educational system is in low level. The present basic degree programs include: the secondary vocational education for graduates of junior middle schools, junior college education of jurisprudence for graduates of high schools, jurisprudence education of upgrading from junior college students to college students of jurisprudence, bachelor of jurisprudence, master of laws, doctor of laws, etc. It can be seen that the degree programs of law education have increased a lot, with organizational overlapping, redundant categories, excessive majors, and various forms [2]including technical secondary school, junior college, college, master degree and doctor's degree. Case teaching can be easily carried out for postgraduates. But bad teaching effects may be got in students with bachelor degree or below, as they lack necessary life experience and practical experience, hardly conducting independent thinking like lawyers and judges, not able to extrapolate after studying specific cases. They are used to present exam-oriented education, which means the teacher often adopts dogmatic textbooks and cramming teaching methods, and the students memorize mechanically. Case teaching is often neglected in such education thoughts and methods. Therefore, one of the conditions of conducting case teaching is that the teaching object must has certain theoretical foundations, able to make conclusions by first finding out major premises and then minor premises when facing real problems. Case teaching serves the theoretical teaching, and there is no doubt that it's just a subordinate. Once blindly take case teaching as the main or even the only way of teaching, it will inevitably "put the cart before the horse", difficult to realize teaching objectives.

#### B. *Lack of Unified Style in Compilation of Textbooks for Case Teaching of Jurisprudence*

The innovation of the teaching method of jurisprudence is one of more important problems in legal field in recent years, which also attracted attention of education department and the competent department of jurisprudence education. In jurisprudence teaching reform, many new teaching methods are proposed and promoted and tried in some jurisprudence classes, among which discussion-based teaching method, regulations-based teaching method, case-based teaching method, etc. have all become fashion teaching methods in jurisprudence teaching. However, seen from the current situation, these new methods and methodology of jurisprudence teaching are spontaneously adopted by various teaching units or individual teacher or class. In other words, a unified and universally accepted

model for new teaching methods hasn't been formulated by state and relevant department in charge of jurisprudence education, even authoritative folk jurisprudence education organizations, which in turn led to new jurisprudence teaching method to be scattered in the smallest teaching units. It may come out that not only the traditional jurisprudence teaching method formed through a long time is weakened, but the effective and feasible teaching methods, which can really train the students in their ability of applying laws, hasn't been formed. In recent years, China has published several books of jurisprudence on case tutorials of highly-regarded departments, but these tutorials have neither unified style, nor unified teaching content and structure, including cases occurred in court system and in civil, law suit cases taking the form of judgment, cases existing in arbitration and various conciliations, cases occurred centuries ago and recently; typical cases and uncommon cases and so on. Therefore, the choice of case is in chaos, and other details are also not in consistent.

### *C. Improper Location of Case Teaching of Jurisprudence*

Case teaching of jurisprudence is a teaching method in which legal cases are taken as the basic or auxiliary unit in jurisprudence teaching process, for the purpose of meeting the needs of training top talents in application of law. No matter discussion-based teaching method, regulations-based teaching method or other teaching method of jurisprudence, their teaching content and foothold are concerning law as a social phenomenon and other social phenomenon caused by law's application. If legal cases are taken as the content of law teaching, the status of jurisprudence of different departments will be changed, and even a country's legal tradition will be changed. Some domestic textbooks of jurisprudence case teaching even take jurisprudence cases as the end of jurisprudence case teaching, but the end of jurisprudence case teaching should be the basic value principle of jurisprudence. It must be emphasized that jurisprudence case teaching exists in classroom teaching. Jurisprudence case teaching seemed to be an irreversible trend, namely, people pay more and more attention to and apply more and more the new teaching method, case teaching.

### *D. Lack of Social Feedback on Practicability of Cases in Jurisprudence Case Teaching*

Jurisprudence case teaching mainly conducts in class. When we discuss law case teaching, we mainly focus on classroom teaching. But jurisprudence cases neither exist in books or materials of teaching plans, nor exist in the materials imagined out by teachers. They mainly exist in social process of implementation and realization of laws. The value of the foundation and basis of jurisprudence in social process is embodied through a certain social relationships[3]. Therefore, jurisprudence case teaching must be combined with a certain social background, which is also an important reason why the west learners always associate certain cases with certain social processes in compiling jurisprudence textbooks. China's present jurisprudence case teaching practice always ignore the interpretation of jurisprudence case, blindly paying attention

to a certain principle of jurisprudence embodied by cases. This will only make students mastery theory of jurisprudence, but not improve students' ability analyzing and handling with specific cases by applying principle of jurisprudence and combining social background. In this way, students often find great gaps existing between the knowledge they learned and social reality, and even think that the knowledge they learned is useless.

### *E. Neglect of Practical Teaching Process*

Chinese legal system is followed the continental law system, and the judicial decision is mainly pursuant to the statute law. All these are totally different from that of case law system in countries with Anglo-American law systems. The basic principle of case law system is "Stare Decisis", namely, when the court is hearing the case, it is needed to regard the legal precedent as the legal basis of hearing and adjudication; if lack of any new conditional and sufficient reasons put forward, it is not allowed to make adjudication contrary to or inconsistent with the previous adjudication until any different adjudication made by the Supreme Judicial Court on another cases. This handling method is contradictory to Chinese judgment with statute law basis, so as to clearly show the defects of jurisprudence case teaching. That is to say, the teachers keeps studying the jurisprudence case in the lecture teaching, neglecting the practical teaching process, failing to lead his students into practice. In addition, the jurisprudence case is inevitably with limitation.

### *F. Extremely Abstract Teaching Content*

Though the jurisprudence case teaching can stimulate the interaction in lecture teaching, any pragmatic jurisprudence dedicating to theatrical explanation on partial and special practice activity is with well-organized system, while its system is theoretical system and legal structural system of this legal department. All this requires that we should strictly abide by the order sequence during the pragmatic jurisprudence case teaching, so as to keep relatively stable[5]. Therefore, during the teaching, the teaching subjects would prefer adopting the traditional lecture teaching. To adapt this type of teaching arrangement, the jurisprudence text books in the current market have to deduce from the connotation, featuring, classification, basic principle, etc. Generally, these kinds of jurisprudence text books look thicker than bricks, the teaching object cannot solve the jurisprudence case resulting from the lack of knowledge reserve, even for some active students, they can only rigidly accept the knowledge by cramming method of teaching. For the students with poor comprehensive ability, they will be daunted at the sight of these rigid teaching modes. The root cause of this problem is the teaching text book featuring abstract. Though any jurisprudence case explanation, the failure in the connection between the case and fundamental theory results in students losing the capacity of solving the practical case on the basis of knowledge learned.

#### IV. JURISPRUDENCE CASE TEACHING MODEL REFORM PATH

Though six kinds of solid bottlenecks exist in jurisprudence case teaching, namely current low education system level, lack of unified style in textbook compilation for jurisprudence case teaching, improper actual location of jurisprudence case teaching, lack of social feedback on practicability of case in jurisprudence case teaching, neglect of practical teaching, and extremely abstract teaching contents, we still can't negate that it has a most prominent advantage. Therefore, when affirming the advantage of case teaching, we should rectify its deficiency, enabling it to meet the requirements of practical undergraduate jurisprudence teaching, thus guaranteeing the smooth realization of our vocational jurisprudence education objectives. A general thought should be insisted in case teaching reform, which should be based on four aspects: Establish jurisprudence case course system and normalize standards of textbook compilation for jurisprudence case teaching, keep to interpretation of legal texts of civil law countries, refer to Socrates 'dialogue-mode jurisprudence case explanation, and introduce heuristic teaching method of Confucius into jurisprudence classroom teaching.

##### A. *Establish Jurisprudence Case Course System and Normalize Standards of Textbook Compilation for Jurisprudence Case Teaching*

First, establish course system of jurisprudence case teaching oriented by training of practical talents in jurisprudence. According to requirements of training practical talents in Jurisprudence as well as social needs, carefully design correspondent course system to meet actual requirements of jurisprudence case teaching. More specifically, rearrange the existing core undergraduate jurisprudence course logically as per rules in students' learning theories as well as actual social needs of practical talents in jurisprudence, so as to form a complete course system of jurisprudence case teaching with organic connections. Second, explore theoretical standards of textbook compilation and compilation paradigms for jurisprudence case teaching. Analyze existing problems and causes based on investigation in existing jurisprudence case teaching paradigms and textbooks of China. According to actual social needs of practical talents in jurisprudence and rules in training practical talents in jurisprudence, conclude a series of theoretical standards with wide applicability for text compilation standards and paradigms of jurisprudence case teaching. Last, in accordance with theoretical standards of textbook compilation and compilation paradigms for jurisprudence case teaching, organize to carefully compile a series of complete case teaching materials in aspects such as case selection, case analysis and appraisal, case apprehension and conclusion, social feedback on practicability of cases, aimed at meeting requirements of actual case teaching design.

##### B. *Interpretation of Legal Texts: Keep to Legal Characteristics of Civil Law Countries*

China is one of civil law countries. As law of German was the most excellent in Europe at that time, it had many good features such as complete theoretical system, rigorous logical structure, and rich contents, so China refers a lot from it when learning from western laws. Now, it comes out that the current law of China still has the character of great technicality and systematicness. In view of its reasonability, we shouldn't remove it in case teaching reform; instead we should, when in interpreting legal texts, pay attention to formation of students' way of thoughts in jurisprudence, enabling them to find out the "major premise" in large and complex systems when confronted with real-life cases. The jurisprudence contains rich knowledge contents and knowledge systems, and its knowledge system includes two aspects: One is the knowledge determined by nature of jurisprudence, such as basic category, terms, proposition and judgments of law and jurisprudence as well as principal and theory of law formed therefrom. The other is the knowledge not determined by nature of jurisprudence, but contained in present jurisprudence textbooks. When imparting the second kind of knowledge, the teacher had better encourage the students to learn by themselves[5] and not go into detail. The above mentioned knowledge determined by nature of jurisprudence can be categorized as basic theories. However, due to low level of present jurisprudence education system as well as students' lack of life and practical experience, just as being discussed above, we can only insert cases in subsidiary parts of each theoretical knowledge point, in addition to keeping to general characteristics of law of civil law countries. And the cases inserted should serve the theoretical knowledge points. Properly explanation of some cases besides interpretation of the textbook enables students to master knowledge better. However, the questions following the cases shouldn't be too academic. For example, as for the case in 2002 that a resident in Shaanxi province was investigated by police at his home for his watching blue movies, interpretation of basic theories such as "theory of control", "theory of administration" and "theory of balance" is not feasible in discussion of the case in class, as this is unhelpful in enabling the students to resolve real problems. Therefore, the basic knowledge should be learned first in subject learning. As for jurisprudence teaching, the characteristics of law of civil law countries should be kept, and teachers should focus on interpreting the knowledge determined by nature of jurisprudence clearly and thoroughly, because the knowledge is not only important for understanding jurisprudence theories, but also a vital bridge between theory and reality.

##### C. *Thinking and Analysis of Legal Cases: Use Socrates' Method of Dialogue for Reference*

As the first ideologist in the West to use the word "dialectics", Socrates has a dialectic teaching method. Through dialogue and discussion, he leads the students into a self-contradictory situation by continuously raising questions, thus guiding the students to gain insight of the knowledge and make general conclusions[7]. It can be seen

that the method of thinking and analysis of legal cases used by Socrates is one-to-one discussion, which can have the students stick to independently thinking and skeptical and critical spirit. This teaching method can be introduced into China's case teaching reform. Jurisprudence can be regarded as a pragmatic subject, so, in addition to focusing on interpretation of textbooks, the teacher should also attach importance to teach methods helpful to resolve real problems. As every case occurs in a certain circumstance, the change of circumstance can produce many issues for discussion. Moreover, difference exists in people's thinking model, so different conclusions can be made by people with different perspectives, and even those with the same perspective may have different conclusions. Therefore, the teacher should train the students in their ability of analyzing and resolving problems, so that they can deeply think and analyze various legal issues and make deductions. This is vital to form the unique capability and quality of juridical personality. Meanwhile, Chinese law is also jurists' law, aimed to guide students to think like a jurist. What's more, China's jurisprudence education aims not to illustrate "what jurisprudence should be", but to teach students watch "what's jurisprudence" based on real individual cases. Therefore, in case teaching, the teacher can select some typical cases and design some questions to be discussed, and then the students can set professional legal roles by themselves in the discussion and make analysis. The basic teaching method used in such classes is dialogue or discussion. The teacher incessantly raises questions in class and discusses some virtual or real case with students, leading the students to conclude principles, rules of law and relations between different kinds of laws, which is the process of students' thinking and analysis of cases.

#### *D. Interaction in Jurisprudence Class: Introduction of "Heuristic" Teaching Method of Confucius*

Though Socrates' one-to-one dialogue teaching mode has some advantages to be learned from, we should also realize its disadvantages in two aspects: One is low teaching efficiency caused by the one-to-one mode, as the teacher can't ensure all the students' thoughts to go in consistent; the other is students' lack of practical experience, not able to learn through deductive reasoning, and always requiring to be led by the teacher. As for these disadvantages, the introduction of Confucius' "heuristic" teaching method can just make up them and efficiently enhance the interactivity of jurisprudence class. The previous content and method of China's jurisprudence education was under the influence of former Soviet Union, so our present jurisprudence teaching mode is classroom teaching. The content of teaching materials consists of meanings, features, categories, basic principles, etc. of basic knowledge points. The legal knowledge can imparted to students systematically and completely through this teaching method, but the teaching contents may be little abstract. "In teaching process, the teacher ought to get the right point to conduct the student, neither too fast nor too slow. The tutor should not to enlighten the student, until he has turn the problem over in his mind and arrive a level of obtaining some thoughts but cannot speak out the standard answer." said in *Analects of*

*Confucius*, Expressing. This is Confucius' brilliant elaboration of heuristic teaching method. One of the prominent characteristics of his teaching method is to let students organically combine studying and thinking, which means that when students wish to know something and think about it but can't express it, the teacher should help students make clear of the concepts. This is called heuristic. Only when the teacher combines the class with the social and law system can the class be lively, invigorating and fresh and the students have the aspiration to study. For example, as for "cases of infringing enterprise's autonomy in management" specially specified in scope of accepting cases in Chapter 2 of *Administrative Litigation Law*, to understand this regulation students have to refer to relevant documents after class, and combine with China's economic system reform, especially the history of decentralization of power and transfer of interest, automation and establishing modern enterprise system. However, students' comprehension ability is limited, so the teacher should help them understand better in class. Thus, the students' initiative can be mobilized and the atmosphere of the class can be warmed up.

#### V. CONCLUSION

It has become an important topic in China's present jurisprudence education to reform and explore case teaching mode in training practical jurisprudence talents oriented by strengthening employability. Its significance has been embodied in three aspects: First, it is helpful to improve students' work ability; second, contributed to combining training of jurisprudence talents and social needs; third, good to enhance students' comprehensive qualities. However, six kinds of defects exist in China's existing undergraduate case teaching mode of jurisprudence, including: low level of present jurisprudence education, lack of unified style in compilation of textbooks for case teaching, improper actual location of jurisprudence case teaching, lack of social feedback on practicability of cases in case teaching, neglect of practical teaching, and extremely abstract teaching content. In order to realize China's legal professional training object, jurisprudence case teaching should be reformed when its reasonability should be affirmed. The general thought of reform includes: establishing systematical course system and normalize standards of compilation of textbooks for jurisprudence case teaching; learning from the features of interpretation of laws of civil law countries; referring to Socrates' dialogue teaching mode; introduction of Confucius' "heuristic" teaching mode. Put the understanding and application of legal provisions into a real situation, thus reaching the object of training students' ability of handling with real cases.

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