

A Brief Summary about Application of Case

Teaching Methodology in China

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Abstract:In order to build a legal society in China, the education quality of law schools is receiving more and more attention, many reforms of education bring many highlights as well as drawbacks. This paper focuses on case teaching methodology, one of the highlights of education reforms, which put forward by Harvard University and introduced to China in the 1980s. With the joint efforts of Chinese scholars, this method is soon adopted by Chinese law schools, and play a gradually important role in Chinese law education. The paper also analyzes the shortcomings of Chinese traditional law education and the necessity of application of case teaching methodology. At the same time, this paper make a brief analyze on the issues arising out of adopting case teaching methodology and make some suggestions to facilitate the application of case teaching methodology in China.

Keywords: Case teaching methodology; law education; education method

1 The shortcomings of Chinese traditional law education

Due to historical reasons, the test-oriented methodology is deeply rooted in Chinese traditional law education, which concludes from the author's personal experience. In Chinese traditional law education, teachers tend to instill theoretical knowledge into students' heads, and find it hard to arouse students' interest in what they learn.

Most students start to learn juris in the university, and the way they learn juris is that they try to recite every article to pass exams, just as they did as those who followed the old test-oriented methodology.

However, this pattern have several obvious disadvantages: students often forget the basic legal concepts and legal clauses they have recited, which prevent them from understanding the law system deeply, and it's also hard for them to find and solve the problems in practice, so it is said that none of them has been shaped as a real legal person .

Of course, this phenomenon can't be blame to test-oriented methodology merely, the out-of-date education method is also a key reason for it. In China, most law schools differ from the equipment of hardware and software and backgrounds on legal research, however, they have one point in common: the application of instill education method, thus, the intrinsic value of legal norms is ignored, which converses law into a kind of theoretical knowledge, and reduce the practical function of law.

2 A brief introduction to Case teaching methodology

Case-teaching methodology stems from overseas, which can be traced back to the year of 1870 when professor Christopher Columbus Langdell, the dean of Harvard Law School, began to introduce cases-teaching into law education.

This methodology organizes students, under the guidance of professors, to learn law in the use of cases according to teaching aims and content arrangement so as to bring up the ability of analysis and summary. [1] Briefly speaking, Case-teaching methodology means to clarify the legal clauses by analyzing typical legal cases.

Chinese law system belongs to Civil Law Regime, which means that written law is the main basis for judicial decisions, and case law doesn't work in China. However, in the 1980s, Chinese scholars made great effort to combine the reality of Chinese law education with written law system on the basis of case-teaching methodology, consequently, the initial Chinese case teaching method was formed. Generally speaking, this methodology includes case teaching, case discussion, case simulation and case practice and so on, and case discussion is most important one. [2]

3 Advantages of Case-teaching methodology

Teachers select legal cases and bring them to class, then students discuss with each other about the cases and end up with a conclusion by applying legal knowledge. This method is of great benefit for senior students and postgraduates, who often have solid basic legal knowledge.

Case teaching methodology does well in cultivating legal thoughts and improving ability of analyzing and reasoning. As an education method that can stimulate open-minded thinking, case teaching methodology receives more and more praise from Chinese law professors.

Teachers prepare cases before class and tell students in advance the knowledge they are going to learn so that they make full preparation for theoretical knowledge. In class, teachers guide students into a certain situation, where students focus on the interactive discussion and analysis with teachers. This virtual class enables students to put the knowledge they learn into practice and find problems as well as train legal thinking through interactive activities.

Case teaching methodology, consisting of various education modes, as well as straightforward content, is attractive for students. In nature, law is a kind of norms which consists of some abstract and boring theories and principles, which leads students to tend to sink into fancy unconsciously in the process of learning. However, Case-teaching methodology guides students into vivid cases, and enables them to testify the viability of norms in practice. Students can speak their own opinions and receive interactive query from classmates in class, and they can communicate with each other better, which gradually improves students' eloquence and expressiveness. As a consequence, students become active in class and put the boring theory into practice, which lays a good foundation for their future.

4 Problems existing in adopting Case-teaching methodology in China

Nowadays, case-teaching methodology is widely used in Chinese law schools, and some achievements are already made. Most law schools include Case-teaching methodology into their teaching reforms, which shows a highly recognized attitude towards Case-teaching methodology. However, there are still many problems in adopting of case-teaching methodology in China.

4.1 Lack of sufficient understanding on case teaching methodology

At present, Chinese case-teaching methodology is still on preliminary stage, so many scholars advocate copying Case-teaching methodology from Common Law System at the beginning of reform of legal education, regardless of the reality of written law system in China. [3]

Some scholars regard case teaching methodology as an opportunistic education method, and it's useless for people who have legal practice experience. Some scholars show doesn't show much interest in case teaching methodology, regardless of students' opinions and suggestions, lack necessary respect for it, and hold critical attitude towards some teachers.

Although many colleges and universities put case teaching methodology into the content of key reform field, however, many law educators still confuse on how to merge this methodology into Chinese actual situation perfectly, and many students also have no understanding on it.

Some teachers think that case-teaching methodology will increase additional burden on them, they need to spend more time preparing cases and previewing books, which cause psychological conflicts between teachers and the methodology. In class, some teachers still introduce cases in oral, they order students to study in groups and answer the questions from classmates or even from themselves, which greatly reduce the enthusiasm of the students. Students often complete homework by creating and answering questions previously, which is useless for case teaching methodology.

In case teaching methodology, students have to preview relative theoretical knowledge, which mainly depend on the students' initiative and consciousness. Students will be in trouble in class discussion if they don't make full preparations. Not every student can make full preparations consciously before class. Some students often keep silent or speak off topic in class as they don't make full preparations.

4.2The shortcoming of cases

China is a written-law country, the authority of law receive more and more attention. The Civil Law country will face many obstacles when applying case teaching methodology, and Chinese current law system also hinder the role of the methodology. Cases in the application of education differ from in practice. It always costs much time to give lessons in case teaching methodology, as this methodology is a new exotic for Chinese academy. Teachers don't any experience on applying case teaching methodology, it's said that Chinese scholars copy western scholars' practice.

The case study lacks substantial research as students don't have personal experience. The research issues that cases want to express can't merge with lesson content perfectly, the selected cases in class can't meet the needs for education, it's hard to select proper cases, and it's also a waste of time and energy for teachers to compile cases, which also limited by the teachers' ability.

So the selection of cases is worthy of discussing. Every case has its own distinctive and specific points, when a teacher select a case arbitrarily or misinterpret the nature of a case, students will be in trouble, they can't form a comprehensive understanding on the whole legal system, which discourages them from keeping enthusiastic about case teaching methodology.

The limitation of case is a problem too, Common Law country have its own advantages on selecting teaching typical cases, as they select case from judgments after publishing by courts. In China, the judgments published in China Judgment Online have many limitations, and its content seems much more simple than the one in Common Law country. The source of teaching cases should be mainly from reality, and legal case is the performance of the application of law. There are many difficulties for China in applying legal cases, especially limited by the compilation of cases. The limited typical cases, often reflect a specific historical backgrounds, are too out-date to meet teachers' needs.

4.3The shortage of professionals

Teacher is commander and conductor for case teaching methodology[4], class effect often relies on personal quality and academic level of Juris educators. Teachers should be equipped with professional knowledge, academic level, organizational skills in language and practical skills. One

of Chinese Juris educators' features is that they are good at theory while weak in practice. Simple teaching methods and lack of capacity of organization and implementation make it impossible for students to learn effectively. Teachers should be good at communication, and have enough practice experience, however, most of Chinese teachers begin to work as a teacher after graduation, which lead students obey teachers' idea while ignore their own opinions, as a result, students lost their initiative and innovation.

In the application of case teaching methodology, the majority of teachers still introduce cases in oral, so it's hard for them to express details of complex cases, and students often forget and miss case details. As teachers do not have various teaching methods, it is difficult for them to stimulate student interest and attract the attention of students, which reduces the effect of the use cases. Therefore, the implementation of case teaching methodology is also a test for law educators.

4.4 too much emphasis on Case Teaching

Case teaching method is related to the teaching content, which is based on a solid theory. Teacher select case is to let students learn some knowledge of the law from, the teacher look case teaching method as a shortcut and holds the view that the prepared case can achieve the task of passing knowledge, as long as there is suitable case teaching and make it the main teaching mode, thus despising the traditional teaching method. Teachers only focus on case teaching method for teaching, students will not learn the theoretical knowledge of the law from the case. Finally, it is likely that a class down, students remember the teacher talk about the interesting case rather than the legal theory of knowledge.

5 The suggestion on the application of case teaching methodology

5.1 Should strengthen awareness of the case teaching

In the new era background and the educational environment, The reform of teaching shouldn't be limited to the reform of teaching method, the innovation of education ideas is the essence of the reform, law schools should make a reasonable arrangement on case method and lecture method, change the concept of education, and strengthen understanding, which contribute to effective practice of case-method. In China, most law schools learn from the foreign case-method, in which students participate in class discussion, so that students cultivate the practical application ability and practice ability.

Teachers should give students enough time to establish mode of legal thinking, guide students to establish their own legal structural framing, enable them to enhance their ability of independent thinking, and inspire them to be creative, encourage them to express their own opinions, discuss with each other in class to improve themselves.

Students should imagine themselves as the participants in a proceeding, analyze the case based on what they have learned, draw their personal conclusions and communicate conclusions and opinions with each other. Thus, teachers and students have a better understanding on the case teaching methodology, which contributed to the improvement of class quality.

5.2 Prepare the appropriate cases

The selected case should be real cases as far as possible. Common Law country regards precedents as the origin of law; China is a Civil Law country, so precedents aren't origin of law. The collection of cases used to be a difficulty, however, it's easy to find numerous cases from judgments and monographs. Case help us to have a better understanding on Jurisprudence, learn how to analyze legal issues, improve the ability to solve actual problems. With the process forward of Legal Society, Supreme People's Court and Supreme People's Procuratorate have published judgments online, which make possible for teachers to search cases in case library.

In the selection of cases, teachers should select based on lesson purpose and relative knowledge. The selected cases should be novel, typical and comprehensive, so that teachers can avoid blindness in searching cases.

And teacher have to distinguish general cases from special cases, general cases are used to explain one specific point while special cases are used to help students to distinguish one point from another. In addition, teachers can give students cases before class so that students make full preparations, which also saves a lot of time for students.

5.3the construction of the team of teachers

Quality of lessons relies on teacher's quality, so teachers should grasp the latest legislative and judicial trends, keep a keen of sense of observation, improve correction and guidance to students, and improve ability to practice. Regular training, improvement of professional knowledge, learning new mode of education at the forefront of judicial practice put forward higher requirements for teachers. Therefore, the effective implementation of the case law needs to be strong faculty building for protection.

At the same time, due to the particularity of case teaching methodology, law school can be more open in the recruitment of teachers. Law schools should encourage teachers to conduct more substantive work, or invite lawyers, judges and other legal practitioners to give lessons. For Some practical courses, law schools can hire the judiciary backbone of the affairs as part-time teachers.

Law school can maintain contact with the court, law schools can invite to be the school's moot court hearing when facing some typical cases, so that students learn something from a hearing, which expands the legal effect of publicity, and help to provide a good educational material for the law, it is a convenient teaching method for case teaching methodology.

5.4 Case teaching method and teaching method reasonable combination

We must clear that the case is a supplementary means of theoretical teaching. and the case should be related to the teaching content. The selection of cases is to make the students learn certain legal knowledge, so we should choose the appropriate cases to carry on the case teaching. Case teaching method can not replace traditional teaching method of case teaching, the case teaching method is used mainly to discuss, debate and analysis, thus inspiring students to think actively, arousing students' subjective initiative, improving students' logical reasoning and language expression ability. which is beneficial for students to choose a professional occupation in the future. However, to use the specific analysis of law cases,we must have a certain basic knowledge of the law theory. We aren't able to make the case method of teaching to be Absoluted and Enlarged. and particularly, it should not be the confrontation of traditional teaching methods, instead they are combination, complement for each other. If there is no certain legal theoretical basis, you can not analysis the case of the complex legal relationship for a specific analysis. It requires that before the case teaching, students should master certain legal knowledge, legal principles, and have a certain legal thinking. The main way to obtain legal knowledge is to teach in the classroom, and it is possible to form a legal thinking when you grasp the legal knowledge. To some extent, we can say that the implementation of the teaching method is the premise of the case teaching method in our country,. Besides, the case teaching method has its limitations. The typical case can only represent one aspect of the legal theory or a certain theory, it can't cover all the legal theory, it is difficult for students to obtain the system and complete legal knowledge. In our teaching system and teaching conditions, the existence of case teaching is to serve the legal theory, we focus on teaching the students to master the basic theory, and pay equal attention to legal theory knowledge teaching and ability training. Combine the case teaching and traditional teaching better, case teaching theory serves for teaching theory, it pays attention to the theory of law system and the integrity as well as the

cultivation ability of abstracting law theory from cases.

6 Conclusion

There is still a long way to go for legal education to go, and the quality of it is the important premise to cultivate qualified legal person . In China, the traditional education model has its own advantage, but it exists some lag due due to the progress of education, which are unable to adapt to the trend of education. Therefore, the combination of the traditional teaching method and case teaching method, or we can say the combination of theory and practice, plays an irreplaceable role in the construction of the legal system in our country ,which is a special combination of single boring text type static teaching and content rich interactive dynamic type dynamic teaching, and the two phase complement each other, in order to ensure the quality of legal education. Of course, we should make positive thinking and self digestion of the teaching methods, explore and study the problem, in order to play out the advantages of the law education in our country.

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