

Problems in the Teaching of Chinese Legal Clinics and Countermeasures

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Abstract: Legal clinic education is one of the effective ways to train law students to practice their application skills. However, the lack of funds in the practice of legal clinic education in China, the lack of a faculty, the lack of sources and the low degree of social recognition have curbed the educational functions of legal clinics. Solving the above problems is a necessary condition for the sustainable development of clinic education.

1. Introduction

This article is discussed in the following aspects: optimizing the external financial support, optimizing the team of clinic teachers, and forming a team of full-time and off-campus part-time teachers is the basis for the development of clinic Education, linking legal clinic education with legal aid. It is the guarantee for legal clinic education to obtain sufficient sources of information .

2. Overview of the Development of Legal Clinic Education in China

Legal clinic education or clinic-style legal education, also known as clinical law education, was born in the United States in the 1960s and was first created by Yale University and Harvard Law School in the United States^[1]. Legal clinic education is the product of introducing the clinical education mode of medical colleges into the legal teaching activities. It imitates the way in which medical schools use clinics to train doctors and establish legal clinics of certain forms and contents to make students contact real parties and handle them. In real cases, under the guidance of clinic teachers, the law is used to encourage students to have a deep understanding of the law and to develop students' practical ability to apply the law and professional awareness. At the beginning of the 21st century, along with the development and prosperity of Chinese legal education, the American clinic-style legal education model was introduced into China as a teaching method reform measure. At present, more than 205 law schools in China have adopted a clinic-based legal education model and have opened legal clinic courses.

3. The Problems Faced by Chinese Legal Clinic Education

3.1 Lack of Funding Sources

The education funds of the first law schools in China to carry out legal clinic education are mainly from the support of the Ford Foundation of the United States, and even said that it was the only source of funding. The follow-up began with some education funding and school funding support. But even so, it still can not meet the funding needs of legal clinic education. Different from the investment and supplement of the experimental funds of science and engineering, in the social science education where the teaching expenditure itself is lacking, the legal clinic education can

only be regarded as a part of all practical teaching links of the law major, and the financial support available is inevitably limited. Compared with other legal practice teaching activities, legal clinic education is a high-input, high-cost education model. Most of the funds invested are used to guide teachers and students to participate in the regular expenditures of legal clinic education activities. It is only these recurring expenditures that are difficult to support in terms of practical teaching funds. The expenditures for instructing teachers and students to go out to handle cases, study and exchange are even more insecure. In short, the lack of funds has hindered the promotion of legal clinic education models in Chinese universities to a certain extent.

3.2 The Team of Legal Clinic Teachers is Incomplete

The legal clinic education adopts an education method similar to that of the master's apprenticeship. Therefore, the requirements for teachers are very high. It is necessary to have a clinic with rich legal experience and relevant legal professional qualifications. Legal clinic teachers should be "double-type" teachers, but the lack of practical experience is also the shortcoming of teachers in general law schools. The incompleteness of the clinic education faculty team has led to the development of legal clinic education in terms of specialization, standardization and socialization. At present, the instructors of Chinese legal clinics are almost exclusively the full-time teachers of law schools, and most of them are young teachers. Although they have corresponding theoretical foundations, they often have insufficient practical work experience. At the same time, in-service teachers in colleges and universities also face heavy teaching tasks and scientific research pressure. Only after completing the normal teaching and research tasks can they take a small part of the time to guide the students in the legal clinic, which can easily lead to students in the clinic. You can't get timely answers when you encounter problems. Of course, some law schools in law schools have a small number of part-time instructors in addition to full-time teachers. The temporary characteristics of part-time instructors determine the fragmentation of counseling. Because part-time instructors are not in the school system, there is no guarantee that there will be enough time to get in touch with students. The understanding of students' abilities, personality and expertise is relatively one-sided. It is not possible to develop an exclusive training program for each student from person to person. It can be seen that adequate funding guarantee is the prerequisite for the development of legal clinic education. Excellent instructors are the key to the development of legal clinic education. If the problem of the construction of full-time teachers in legal clinic education is not solved, it will inevitably greatly reduce the effectiveness of legal clinic education, which will affect the long-term development of legal clinic education.

3.3 The Source of the Case is Limited

There are two main modes of education for legal clinics in China. In order to solve the actual legal dispute mode, the party seeks legal assistance from the legal clinic, and the clinic student acts as the agent of the party to handle the case. The other model is a mock court form adapted from the case. First, in the first mode, civil and commercial cases involve disputes between equal subjects. The parties are more likely to accept the legal opinions given by the teachers and students of the legal clinics; while the criminal cases involve conviction and sentencing, the parties are more rigorous and more inclined^[2]. Entrusting full-time lawyers and other professionals; administrative cases are more obvious, involving legal disputes between unequal subjects, while the other party is an administrative subject, the case is more complex and professional, and students in legal clinics may not be able to solve it. The parties lack sufficient trust in the legal clinic, so in reality, the legal clinic education is mainly based on civil and commercial disputes, resulting in a single and limited source of cases. Second, another model of mock court is lacking in practicality. The cases adopted by the legal clinic education for simulation training must be representative, generally existing cases and have been judged by the court. Many representative cases are mostly taught in the theoretical classroom, and the existing judgments are greatly Limit the space for students to play.

4. Improve the Countermeasures of Chinese Legal Clinic Education

In view of the current development of legal clinic education in China, it is necessary to make certain innovations. Adapting to the Chinese educational environment and education level, actively promoting the popularization of legal clinic education as a compulsory course for law students, as an important means for law students to improve their professional practice ability, so that they can get in touch with the future during their studies. Legal work, cultivate awareness of profession and work, and provide reserve talents for the rule of law. We believe that China's legal clinic education should be improved from the following aspects.

4.1 Broadening the Sources of Funding for Clinic Education

The main problem facing legal clinic education in China is the lack of funds. The funding problem cannot be solved, and legal clinic education cannot be widely carried out in Chinese universities. The education of legal clinics in early China mainly relied on the funds of foreign foundations, but this is not a long-term strategy. Since it is necessary to develop legal clinic education with Chinese characteristics, we cannot rely solely on external support. We must make full use of existing domestic resources and extensively explore possible support factors. To solve the problem of insufficient funds, we believe that we should adopt a combination of internal and external methods. The so-called internal and external integration refers to the linkage between the internal and external universities. In the university, it is necessary to ensure the funds for activities in the school, increase the investment in teaching funds for legal clinics, and make full use of the financial security within the education system is the most fundamental way. External support for colleges and universities refers to the absorption of social funds. Previously, relying on the support of foreign foundations, we should now turn to the support of domestic education foundations and entrepreneurs. In the contemporary economic society, there is no shortage of enterprises and entrepreneurs who are enthusiastic about education. Colleges and universities should increase their awareness of their own legal clinics^[3], let the outside world understand the legal clinics, attract their attention, and attract them to take the initiative to develop clinic-based laws for colleges and universities. Education is funded.

4.2 Optimizing the Composition of the Legal Clinic Instructor Team

The serious problem of instructors lacking is another important obstacle to the development of legal clinic education in Chinese universities. At present, most of the instructors in colleges and universities in China are full-time teachers of law schools. Although they have corresponding theoretical foundations, they often lack practical work experience. In order to solve this problem, we believe that suitable candidates should be hired from practicing lawyers as the instructors of the legal clinic. Compared with professional teachers, practicing lawyers have more practical experience and stronger business ability. Lawyers can analyze and solve problems from the perspective of practice when dealing with specific cases. This is in line with the legal clinic to cultivate the practical ability of law students. The purpose of the match. The professional countermeasures taken by practicing lawyers on the legal issues of the parties are the practical experience that the law students lack. The practice of hiring lawyers can also solve the shortcoming problem of the students. However, hiring a practicing lawyer should also solve the problem of funding, because practicing lawyers often need higher salary, only paying enough salary can mobilize the lawyer's work enthusiasm and ensure efficiency.

4.3 Multi-Channel Source of the Case

The legal clinic education is based on the specialization of the legal profession. Its goal is to focus on training the judicial skills of the law students in the absence of practical experience, and to provide students with comprehensive quality and practical ability, so that students can enter the legal profession faster after graduation. Professional role. Only when sufficient sources are obtained can students be guaranteed training. However, it should be pointed out that even if the legal clinic

has a serious shortage of cases, colleges and universities cannot choose to accept the source of the case. They need to choose to receive the typical source of the case. Some cases that are not representative or involve more complicated relationships should not be handed over. Solved by legal clinics, blindly pursuing the number of cases may be counterproductive.

Expanding the source of the case can be carried out through the following aspects: First, universities need to strengthen communication with the legal aid agencies in the field. A large proportion of legal aid cases are for legal aid because of financial difficulties. The non-profit of legal clinics can alleviate the financial difficulties of the parties, and students may be more enthusiastic than legal aid lawyers. A positive attitude is also a guarantee for the rights of the parties. Although legal aid institutions have a wider influence in society, people's legal awareness is increasing day by day, and there are more and more disputes entering the judicial field. Legal aid agencies are also in a tendency to overwhelm the surge in cases. Therefore, the effective docking of legal clinic education and legal aid work can not only share the pressure of legal aid institutions, but also broaden the source of cases in legal clinics. Secondly, increase the publicity of the public clinics^[4], expand the channels of publicity, and publicize the significance of legal clinic education through the media, newspapers, and the Internet^[5]. This requires first addressing the low social recognition of legal clinics and increasing public confidence and enthusiasm for legal clinics. Change the passive search for the source of the case to actively accept the source of the case, and guide the parties to take the initiative to consult the legal clinic of the university. At the same time, we should also pay attention to the follow-up of the parties involved in the case and do a good job in the aftermath. This will help the legal clinic students to summarize the experience of the cases handled in the past, and the usual accumulation will help to achieve the sublimation of business capabilities.

5. Conclusion

In short, the development of legal clinic education in China is still relatively short, and there are many difficulties. We still have many problems to be solved^[6]. In response to the characteristics of legal education in Chinese universities, we will develop legal clinic education with Chinese characteristics, strive to innovate in legal clinic education, and ultimately serve the educational goal of cultivating applied legal professionals.

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