On the New Mode of Practical Teaching

Experience from Law School, China University of Political Science and Law

By Xu Shenjian

Traditional legal education ignores the cultivation of practical ability, as well as the social demand. The mere focus on the imparting of legal principles and legal knowledge based on present norms leads to the overlook of cultivation of students’ lawyering skills. Class teaching is restricted to the instruction of systematic knowledge instead of the application of texts to reality, lacking in the training of students’ ability to apply law to reality. Such courses as case rounds are conducive to better the students in problem analysis, yet they are so abstract that students fail to have a live feeling of dealing with a case. One important purpose of legal education is to foster students’ practical lawyering skills. Therefore, drawing upon the mode of clinical legal education from the United States of America, with a view to transforming the present legal education into the one highlighting both theory and practice, nurturing all around legal talent, training students to master various skills and methods in the application of law to real life, communication with others, analysis and settlement of problems, the Law School of China Political Science and Law, in accordance with the teaching philosophy “Integrity of Morality and Ability, Conversance with Both Special and Comprehensive Capacity”, for the cultivation of interdisciplinary talent featuring solid foundation, high quality, wide horizons, strong ability, has attached great importance to practical teaching, which can serve as the best tool to train the students’ creativity, entrepreneurship and ability for innovation. Great efforts have been made to explore this field, leading to preliminary experience. 

At present, our school is leading China in establishment of the Teaching and Research Office on Practical Teaching, with me as the director. Clinical legal education is the main part of our practical teaching. The year 2004 witnessed the establishment of In-house live-client Clinic. In 2007, three clinicians participated in the workshop hosted by University of the Pacific, McGeorge School of Law in Guangzhou. Inspired by our American counterparts, we have set up Legal Externship Programs.

1. In-house Live-client Clinic

The In-house Live-client Clinic was established in June, 2004 under the supervision of Teaching and Research Office of Legal Professional Ethics. It provides clinical legal education and offers research courses by the teachers with rich teaching as well as law-practising experience. On the one hand, teachers impart to students hands-on experience concerning basic approaches to and skills of litigation, legal writing, and rules of evidence by analyzing real cases. On the other hand, students with the legal clinic take part in the cases through various ways such as engaging in consultation on the phone, providing legal opinions with the help of clinical teachers or even participate in litigations as agent ad litem. The legal clinic, at the same time, serves as the Beijing Volunteer Legal Aid Center, co-established by Beijing Municipal
Judicial Bureau and Law School, China University of Political Science and Law, providing all sorts of legal services to low-income families in Beijing. Hence, Administrative Law Legal Clinic is the only clinic that can engage in litigation services. That is to say, every student in the clinic can be the agent *ad litem* to represent his clients in court with the certificate issued by Beijing Municipal Judicial Bureau. In the course of exploration, Administrative Law Legal Clinic has developed such system with its own characteristics as in the Memorandum of the Legal Clinic, the Registration of Visits and Phone calls, the Conclusion Report and the Management of Archives. To fully develop students’ ability, students are broken into several groups, led by one teacher each. On the afternoon of weekdays, one group of students, together with their teacher, will be on duty in the clinic, receiving the phone calls from help-seekers, interviewing clients, diagnosing their legal problems, giving “prescriptions”, answering questions and furnishing them with legal aid.

**Teaching methods in the clinic:**

The teaching methods differ greatly from the traditional ones with regard to the instruction of students on how to study law, master lawyering skills and ability, and to improve comprehensive capacity as well. The teaching methods in the Administrative Law Legal Clinic are as follows: Firstly, with heuristic teaching method, lead the students to the best answer through their own way of thinking and analysis. In class, we put students first. Teachers keep raising questions to inspire the students to think of all possibilities and to find out relevant laws and regulations, facts, factors, as well as the connections between various factors. Students are also enlightened as to think on their own so that they can gain a more in-depth understanding of the knowledge. In this way, they can acquire the way to think like a lawyer as well as all kinds of skills, resulting in the improvement of their comprehensive capacity. Secondly, client-centeredness and student-centeredness advocated by clinical education enable students to establish a close contact with their clients, to face squarely conflicts and disputes in the society, and to apply theory to practice. During the teaching process, teachers and students are on an equal footing, discussing and analyzing the case together so that students are the real master and person-in-charge of their study. One-to-one pattern, mostly adopted for the teacher to supervise his students in real cases, gives more attention and guidance to the students to make sure that they are taught in accordance with their aptitude. Finally, by means of role play, simulation, and other teaching methods, students can learn from each other during analysis and discussion of real or hypothetical cases.

**Teaching effect in the legal clinic:**

Firstly, students have learnt the analytical methods to combine legal text with social reality. Meanwhile, they also have the access to address practical problems by analysis of law and use of applicable law. By solving real cases under the heuristic guidance from the teachers both in class and in person, students can learn more lawyering skills in analysing case facts, collecting evidence, communicating with others, writing legal instruments and so on. In this way, they are trained in real
preparation for the legal profession. Secondly, students are brought into full play during the teaching process. Teachers not only answer questions, but also teach students how to learn and apply theory to the volatile reality in the hope that they can learn to utilize their knowledge in real life through clinical practice and can have a clear idea of the problems with the judicial system. During the discussion of cases, teacher-student relations can be further strengthened. Students have also learned professional ethics and practical ability, as well as how to be an excellent legal practitioner, thus make contribution to the cause of legal aid. Finally, students have learnt to deal with their problems independently when they handle real cases and contact real clients on their own, instead of relying solely on teachers. They pay more attention to self-reliance and self-cultivation. At the same time they attach importance to the influence of the case on their clients and go to great lengths to safeguard their legitimate rights and interests. In short, both their sense of responsibility and independence have been enormously enhanced, which are essential to a legal practitioner. Students’ practical ability and sense of social responsibility—helping those in need and safeguarding justice and equality—have been strengthened when they render help to the needed. During that process, teachers play the role of “steering the wheel”; students deal with detailed practices of interviewing clients, examining and verify different kinds of evidence, writing litigation instruments and so on and so forth. Besides excitement and sympathy, students also feel the pressure and challenge as an agent ad litem for the first time. In real cases, students’ performance plays a decisive part in their clients’ legitimate rights and interests and even their fate, which is both the pressure and the driving force for them to make unremitting efforts for every case they participate in.

2、The Legal Externship Programs

Enriching the practical experience of law students, Law Schools, under the current educational system, will arrange professional externship with a term of 2 to 3 months. This short term limits the students’ roles to mere office boys or girls. In those roles, they can only watch, listen and follow as apprentices or standers-by. Though watching and listening can help the students to strengthen their comprehension of specific legal characters and further their understanding of their legal knowledge, they are far from enough. For instance, during the externship in a law office, a student may not stay long enough to witness the conclusion of a case; the lawyer-in-charge dares not to distribute any complicated case to a student-in-externship, nor can the supervisors make out a systematic training program due to the limited time period. Consequently, this kind of externship could only broaden a student’s horizons instead of strengthening his ability.

The one-year Legal Externship Programs program started from October 2007, after substantial research by the Law School of China University of Political Science and Law, on the basis of rational absorption of the existing professional externship system and the successful experience of our American counterparts.
Legal Externship Programs have been launched with some famous law firms in Beijing as the externship base, including Yue Cheng Law Firm, Jun Tai Law Firm, Hui Cheng Law Firm, Zheng Tai Law Firm and Hongfan Guangzhu Law Firm. In this way steady cooperative relations have been established between the Law School of China University of Political Science and Law and the above-mentioned law firms. Two-supervisor system has been put into place, where students will be equipped with supervisors from both the Law School and those law firms. Externship group, with 8 to 10 students, will fulfill their one-year professional externship in one of the above bases.

Of course, no innovation could be successful without feasible detailed measures. Hence, the Law School of China University of Political Science and Law has adopted the following supporting measures.

First of all, this new practical teaching mode is guaranteed of sufficient time for legal practice. In a period as long as two semester, students can go through systematic training of legal practice, such as legal writing, negotiation skills, legal professional rules of conduct, non-litigation services, debate about hard cases, trial viewing, legal consultation and legal aid. From such training students can learn to associate theory with practice closely.

Due to the nonperiodical characteristics of legal practice, the former mode of short-term externship may not achieved substantial results because the duration of externship can hardly overlap that of a case, while the new mode provides more chances for the students to participate in the externship with longer terms and in a more flexible manner. Meanwhile, a year’s externship is contributive to the enhancement of students’ communication skills and professional integrity.

Secondly, professional externship is based on steady cooperative relations between the school and law firms. Likewise, relations between the school and law firms can be further enhanced through professional externship. Therefore, we can easily keep track of students’ performance, make in-time evaluations and ensure everything on course.

Thirdly, improve the organizational structure of externship by setting up Teaching and Research Office of Practice and reinforcing the role of theory. In addition to such externship organizing bodies as the existing Externship Working Group and Students’ Work Office, the Teaching and Research Office has been established to augment guidance and research on practical teaching, make timely evaluation and analysis of new models of professional externship. Simultaneously, the office begins compiling series of textbooks on practical teaching, furnishing students with theoretical guidance and launching academic discussion on new problems arising from professional externship.

Fourthly, regulate the externship program with institution and discipline. A good plan is just a plan without institutional guarantee. As a result, the Law School of China University of Political Science and Law has enacted such rules and regulations as the Regulations on Teachers of Professional Externship, the Regulations on Students in Professional Externship, and the Services and Responsibility of the School and Law Firms in Students’ Professional Externship. All the rules and regulations are
implemented to the letter to ensure the result.

The dilemma of the one-year legal externship programs is time management for students. They will have take the classes at school as well as go to externship in the law firm. Therefore, one year externship proposal does not require the students to be full-time interns but to complete the teaching contents and to achieve the expected effect in the externship programs. In the span of one year, students talk with either part-time teachers or full-time teachers about the exact contents of externship catering to their particular time schedules so as to avoid time collision.

3. A successful case guided by the participating teachers at Guangzhou Workshop

On 21st December, 2007, Beijing Haidian District People’s Court rendered a civil judgment NO. 22227, marking a new result of the first traffic accident case with damages up to one million Yuan. Han Duojia and Jiang Tao, students from the legal clinic worked successfully as the agent *ad litem* in this case.

Late in the afternoon on August 18th, 2004, a serious traffic accident happened when a Beijinger Zhao Dawen drove his car home and hit a manhole cover dangling above the road, claiming three lives and causing one injury. In January, 2005, Beijing Haidian District People’s Court entered the following incidental civil judgment: Zhao Dawen committed the crime of causing traffic casualties and was sentenced to three years imprisonment with a three-year suspension of execution, as well as civil damages amounting to RMB 917,584 Yuan. As the first traffic accident case with damages up to almost one million, it has received a great deal of attention from all walks of life as well as from the press. China Central Television (CCTV) has given a full coverage of the whole case. In September, 2007, Zhao Dawen brought a civil litigation against Hai Rong Da Investment and Construction Company, Ltd, the company responsible for the management of manhole covers, claiming that the defendant shall bear the civil liability. The client who lost the case and spent a huge sum of attorney’s fee came to the clinic for help. Jiang Tao and Han Duojia, students from the clinic, under the supervision of their teachers, Xu Shenjian and Li Qian, worked as the agents *ad litem* in the litigation with Zhao Dawen as the plaintiff. Xu Shenjian and Li Qian accompanied the two students to the court. After careful preparation, two Students defeated two defense counsels and finally won the case. The court ordered the defendant Hai Rong Da Investment and Construction Company, Ltd to compensate the economic loss of the plaintiff Zhao Dawen RMB 460,361.02 Yuan.

Ms. Wu Shijun, mother of Zhao Dawen, gave a banner flag to the clinic on 24th December, 2007, to express their gratitude, which is also the recognition of the students’ professional quality. This case will influence the judgment of similar cases in China and is also a success of our school’s practical teaching.