Research on Commercial Law Classroom Teaching under the Mechanism of Innovating Legal Talents

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Abstract: The commercial law curriculum is characterized by rich content, strong cutting edge and emphasis on practice. At present, there are contradictions in commercial law class teaching, such as more courses and less class hours, exam-oriented education and quality education, theoretical teaching and practical teaching. Teachers should focus on the cultivation of students' self-learning ability, highlight the key points of teaching, adhere to the direction of quality education, and pay more attention to practical teaching.

Introduction

In April 2018, the Ministry of Education of China issued the National Standard for the Teaching Quality of Law Undergraduate Majors in Colleges and Universities (hereinafter referred to as the “National Standards”), which clarifies that the goal of undergraduate law majors in Chinese universities is to cultivate composite, applied and innovative legal talents and the reserve forces. Under the guidance of this standard, how to examine the current college law education and innovate the legal talent training mechanism is the historical mission of every legal educator. In this paper, the author will combine his own teaching practice to talk about the reform and innovation of the pattern of the business law classroom teaching.

The Characteristics of Commercial Law Course and it’s Teaching Requirements

Rich in Content. Commercial law is one of the core courses of law majors in higher education institutions. The course content contains many important trading systems and organizational systems in the modern market economy legal system. The teaching content is extremely rich, including general theory of commercial law, company law, partnership law, securities law, bill law, insurance law, bankruptcy law and so on. In addition, due to the rapid development of the world economy, the rules of commercial transactions are constantly changing, and the commercial law norms derived from the rules of business subject transactions are constantly revised and increased. The large amount and the new of content are the most prominent features of the commercial law curriculum. The business law classroom teaching must cover all aspects of the business subject and commercial law.

Strong Cutting Edge. After the World War II, the scale of international trade expands constantly, and economic exchanges and links between countries were closer. In order to promote the development of international trade and economics, some international organizations have enacted many international commercial conventions. Many countries have acceded to these international organizations and recognized them. China is no exception. These international conventions have become the source of our commercial law. In addition, China has also formulated and revised the domestic special law on commercial matters to harmonize with international treaties. In short, commercial law has an obvious international characteristic. Therefore, in the teaching process of commercial law, we should not only be satisfied with the current domestic legislation, but also learn the latest legislation from abroad and the most advanced commercial law concepts,
and learn advanced legislation from other countries and regions.

**Focus on Practice.** Commercial law originated from the trading habits of merchants, is a summary of merchant trading rules, and merchants' trading rules have technical characteristics. Commercial law norms are typical technical norms. For example, the drafts and promissory notes involved in the bill law have not been touched by most people. Due to the lack of social experience and work experience, many students need more practical training. In addition, although the commercial law is a substantive law, it also contains many procedural laws, such as the merger, separation, liquidation, and dissolution of the company in the Company Law, and the procedures for bankruptcy of the enterprise in the Enterprise Bankruptcy Law are all Procedural regulations. Learning this content, they can well understood and mastered only after practice.

**The Contradiction Analysis of Current Commercial Law Classroom Teaching**

**Contradiction between the Content of the Course and the Lack of Class Hours.** As mentioned earlier, the commercial law curriculum contains a wide range of content and complicated systems, involving all aspects of the current market economy. In terms of business subject law, companies, partnerships, individual proprietorships, and foreign-funded enterprises... Any kind of business entity plays an important role in China's modernization construction and is an indispensable part of the commercial law curriculum. In terms of business conduct law, securities, bankruptcy, insurance, bills, etc. These legal knowledge of business conduct must be mastered by law students in the future to engage in commercial activities, and must not be neglected. However, commercial law courses are arranged only for one semester (about 48 hours) in most school. The teaching of commercial law should not only take into account the general theory of commercial law but also the sub-theories of commercial law, which makes it difficult for many teachers to accept. The response measures can only be painstakingly cut some of the courses or just touch on them without going into them deeply. Many commercial sector laws can only exclude teaching plans or just a little introduction.

**The Contradiction between Exam-oriented Education and Quality Education.** For law students, if you want to work in this profession after graduation, it is necessary to take and pass the legal professional qualification examination (hereinafter referred to as the law test). The importance of the law test is self-evident. Many students often have the content of strengthening legal examination training in teaching suggestions for schools and teachers. As a big value-added member of the law test, the commercial law is naturally valued by students. It is understandable that many teachers have added the content of training for the test in their teaching process. In these years, it pays more and more attention to the examination of students' ability in legal professional qualification examination. However, as many students said that these tests are more about the examination of legal provisions. In China, our National Standards require law students to have the basic skills to integrate the professional theories and knowledge they have learned and to apply them comprehensively in professional practice. They should have the ability to use scientific thinking to carry out scientific research and innovative entrepreneurial practices. How to strengthen the legal professional quality education and the cultivation of professional competence in the teaching of commercial law courses is a major challenge for teachers of commercial law courses.

**Emphasizing the Contradiction between Theoretical Teaching and Neglecting Practical Teaching.** China's legal education pays special attention to the study of the basic theory of law. It’s beneficial for guiding practice to Mastering solid theoretical knowledge of commercial law. However, the traditional infusion teaching is centered on the teacher, the subjective initiative of the students can not be played, the attention of the lectures is not easy to concentrate, and the teaching effect is not ideal. Commercial law is a very practical subject, and theoretical teaching away from practice can only be a castle in the air. There is no written commercial code in China. In the part of the general theory of commercial law, more is to learn from advanced foreign legislation, and the discussion of theoretical knowledge in class teaching. Many students think that these contents are not practical, and show less interest on these. This requires teachers to add examples to assist in the teaching. In addition, if there is a lack of practice, it is difficult for students to
understand the obscure theories of commercial law, such as the cumulative voting system in company law. If the teacher is only explaining the law, many students will not be able to fully comprehend, but by example and practice, some students can easily understand the connotation of the system. Finally, for the content of the procedural law in the commercial law, if there is no practical operation, it is tantamount to talking on paper, and of course the learning effect is not good.

The Innovation of Commercial Law Classroom Teaching

**Focus on the Cultivation of Students' self-learning Ability, Highlighting the Key Points of Teaching.** Self-learning ability is a basic skill that law students must master. Even if the class hours of commercial law is increased, for those important business department laws, if traditional teaching is carried out according to the chapter style, it is basically a task that cannot be completed. In recent years, China's commercial legislation has been continuously improved, and new legislation and judicial interpretations have been introduced almost every year. Learning the latest legislation and expertise by self-teaching is a must for every law major student in the future. It is said that it is better to teach people to fish than just to give them fish. Mastering good self-learning ability is the lifelong benefit for students. Moreover, when the era of information and globalization comes, the knowledge system are changing fast. Teachers and students are often on the same starting line, and the openness of resources has subverted the image of teachers as “knowledge monopolists”. Students can master relevant knowledge through extracurricular learning. Therefore, in the classroom teaching of commercial law, the author suggests that more attention should be paid to cultivating students' self-learning ability. Regarding the cultivation of self-study ability of commercial law, teachers should do the following: First, recommend appropriate reference books, papers, precedents, etc. as extracurricular reading materials for students to read. Secondly, the layout of some commercial law questions and assignments led to students' thinking and discussing. Last, instruct students how to quickly search for information and find answers.

On the basis of students’ self-study, the teachers of commercial law should focus on the key points in classroom teaching. For example, the study of the general theory of commercial law should pay special attention to the introduction of the basic principles of commercial law and the characteristics of commercial law. Mastering these knowledge points is of great benefit to students' self-study. As for the historical process of China's commercial legislation, it is entirely possible to arrange for students to read outside class. Another example is that the non-causality of the bill is the core of the whole bill law, and should be the focus of classroom teaching, and the types of bills and other content can be fully self-learned.

**Adhere to the Direction of Quality Education.** Although the legal professional qualification test is a stepping stone for employment for law students. However, as for law major, the examination-oriented education is not conducive to the cultivation of innovative talents in law. About the preparation and study of the law test, students can totally take part in the pre-examination training class or read the review materials. Law teachers should teach strictly according to the training plan and syllabus. If the teaching is only for the legal examination, the law school becomes the training base for the legal professional qualification test. For example, in the general theory of commercial law, there is no legislation in the General Principles of Commercial Law in China. There are few references to the law in the legal professional qualification test and the previous judicial examinations, so many training courses will not teach these contents. However, the content of the general theory of commercial law is extremely important for students of law majors. It is precisely because there is no relevant legislation in China, as a law major, students have to learn advanced foreign legislation and commercial law concepts. Only in this way can they make a contribution to the improvement of the rule of law in China in the future. In addition, there are still many shortcomings in China's current commercial legislation. How to improve it? What are the advanced legislations of other countries and regions? Can learn from them? These issues are far beyond the scope of the law test, but as commercial law classroom teaching which pursues quality education and cultivates legal talents, it must be strengthened.
Pay more Attention to Practical Teaching. Paying more attention to practical teaching does not mean neglecting theoretical teaching. China belongs to the traditional civil law countries, and legal education must naturally pay special attention to the study of legal theory. This point still needs to be adhered to in the classroom teaching of commercial law. The author suggests that more classroom time can be used for practical teaching on the basis of emphasizing students to strengthen extracurricular self-study. The classroom practice teaching of commercial law can be carried out in the following two aspects:

Many law schools now have established legal clinics, and it is feasible to use the legal clinic platform to strengthen commercial law practice in teaching. During the operation of the legal clinic, there will be a large number of commercial cases, such as contract review, contract dispute handling, corporate rules and regulations, equity dispute resolution, insurance dispute litigation, etc. Both litigation cases and non-litigation cases can be used as examples for commercial law teaching, allowing students to personally handle them under the guidance of their teachers. If the case is consistent with the content of the teaching, the teacher can fully carry out heuristic guidance in the classroom. It is conducive to consolidating the knowledge gained and greatly improving students' interest in learning. In addition, the commercial law case of legal clinics accumulated over the years can be an example of future teaching. Such case teaching is more realistic and attractive than those fabricated cases. Using the platform of the legal clinic to practice commercial cases can be carried out in the process of teaching theoretical knowledge in each class, or in some specific class hours. This novel and unique form of teaching not only helps to consolidate the professional knowledge of commercial law, but also enhances legal professional skills and cultivates legal professional ethics. It is worthy of vigorous research and promotion.

Introducing the commercial cases from the teaching practice base into the classroom teaching of commercial law is also a major innovation in the training mechanism of the legal talent. Many law schools have established their own practice teaching bases in courts, procuratorates, and law firms. The school can not only send students to the base, for practicing and their internship but also make full use of the case resources from the base. For example, the school can establish close contact with the commercial court of the court and get some cases in time as a teaching case in the classroom (the type of case chosen should be compatible with the content of the course). Students can fully understand the case through on-site or online scoring, and let students role-play in group, some of the parties involved in the case, some play the judge... let the students participate in the whole process of case handling, including the organization of multiple evidence exchanges, Pre-trial mediation, mock court trials, etc. For real court trials in real cases, students may not be able to attend the scene most of the time, but they can watch it through the live broadcast organization of the China Court. After the trial, the teacher can ask the students to evaluate the performance of both parties and express their opinions, sum up their own shortcomings and so on. Finally, the teacher can ask the students to write their own experiences and summaries for the judgment and handling of the case. In the whole process of case teaching, students should take the initiative, and teachers are more inspired and guided.

Summary

Professor Huang Jin, president of the China University of Political Science and Law, pointed out that the legal course system should be changed from a theory course to a course system centered on “cases” and “discussion classes”, and the curriculum is supported by a course of live court observation. The teaching materials also need to be transformed from based on textbooks into a multi-level and diversified state with original files, dynamic trials, and video materials. The content of the course has evolved from pure knowledge teaching to the combination of knowledge learning, skill learning and experience sharing. The teaching method based on teachers’ teaching should be optimize for self-study, interactive discussion, and review court trials. The commercial law classroom teaching under the mechanism of innovation legal talents should adhere to the quality education, vigorously introduce practical teaching, and give full play to the initiative of students to achieve the goal of cultivating outstanding legal talents.
References


[7] Legal clinic education refers to a legal teaching method that trains students to deal with interpersonal skills and professional ethics in the process of students' actual case handling under the supervision of legal teachers.