

## A DESCRIPTIVE APPROACH TO THE EDUCATION IN LEGAL CLINICS

Lei Li

Guangdong Polytechnic College, Zhaoqing, Guangdong Province, China

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### ABSTRACT

With the continuous promotion of legal clinic teaching model in China's colleges and universities, the clinic teaching mode gradually exposes many shortcomings. By reviewing the origin and development of legal clinics and legal aid system, combining the development history of our university's legal help center, analyzing the common problems existing between it and related college legal clinics, and innovating the development mode of legal clinics. By building a standardized and reasonable college volunteer team, accelerating the construction of Internet information technology, improving the legal aid funding guarantee system and regional college legal aid exposition mechanism, we take multiple measures to improve the college legal aid system, adapt to the new development of legal aid, better integrate legal clinics and legal aid institutions, share the development results and development benefits, and realize the institutionalization and systematization of the college legal aid cause Construction.

**KEYWORDS:** Legal clinic, legal aid, development

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### INTRODUCTION

Legal clinic education, which emerged from major law schools in the United States in the 1960s, is based on the medical school clinical internship model. It is largely based on the medical school clinical internship model, which allows students to provide legal advice to clients in distress in a real legal in a real-world legal clinic, where students provide legal advice and representation to clients in distress under the guidance of a faculty member. The clinic is a real-life legal clinic where students provide legal advice and representation to clients in distress, analyzing their "legal symptoms" and writing "prescriptions. Since September 2000, with the support of the Ford Foundation, Peking University, Tsinghua University, Renmin University of China, and the University of the Philippines has provided legal counseling services to clients in distress under the guidance of faculty members. After twenty years of development and innovation, the legal clinic teaching model with Chinese characteristics has been developed, which provides a good model for the opening and development of legal clinics in China's relevant universities. It provides an experience reference for the opening and development of legal clinics in China.

Clinical Legal Education (CLE) can also be referred to as clinic-based legal education. As the name implies, it is characterized by the use of medical school clinics to train doctors. The clinician assigns students to participate in the process of practical legal application, cultivates students' legal practice ability, promotes students' deep understanding of the law, reduces the distance between college knowledge education and professional skills, focuses on cultivating students' love for social welfare activities, and enhances students' ability to practice law (Guo 2009). It also focuses on cultivating students' love for social welfare activities and improving their professional ethics. It can be seen that clinical legal education is a new legal education mode that is incomparable to the traditional "full of lectures" type of purely theoretical education mode, and its existing value is self-evident.

## **1.The Value of Legal Education in the Clinic**

### **1.1 Intrinsic value of legal education in clinics**

The intrinsic value of legal education in clinics is to promote the development of individual knowledge and reasoning and the perfection of personality by putting people first.

Professionalism, the inherent norms, and requirements of a profession is a comprehensive quality that a person exhibits in the course of practice. Professional beliefs, professional knowledge and skills, and professional behavioral habits are the three core elements of professionalism. Professionalism is fundamental to a person's success in the workplace. Clinic legal education, using the content of lawyers' work as a paradigm for students to emulate, allows students to participate in real, concrete practical work and provide comprehensive and effective legal help to the disadvantaged. Such an open educational model creates conditions for enhancing students' professionalism.

It is the basic requirement of lawyers' professional ethics to uphold social justice and fairness, which is not only the goal and direction for students in their practical work but also the noble value to pursue in their future life. The "law and poverty", "law and social change" and other social issues that are not included in the traditional legal education are the focus of legal education in the clinic, and guiding students to pay attention to, think about, and study these issues is also more beneficial to cultivate students' concern for national affairs, social issues, and public interests. It is also beneficial to cultivate students' universal values of concern for national issues, social problems, and public interests.

The true meaning of legal education should be to make students learn how to learn and use the law, rather than simply instilling some kind of established and solidified knowledge. Clinic-based legal education is to make students know how to find the law, analyze the law, interpret the law and use the law in the face of different case facts and problems in continuous social practice, and to cultivate their ability of independent learning, self-renewal, and self-development. Especially in the legal.

In particular, when solving social problems at the legal level, the users of law must have comprehensive knowledge, a comprehensive knowledge base, and superior skills in using knowledge to solve

problems. In this regard, legal education in clinics has a social function that cannot be replaced by other legal education models.

The basic approach to clinic education, both in the classroom and in social practice, is to study the factual issues of the case and related legal issues as a team as a whole, working in groups to carry out specific practical work. In such a learning environment, through the joint study of legal issues, students can make a rational evaluation of themselves, fully realize their shortcomings, take the strengths of others to make up for their shortcomings, and realize self-improvement; in such a working scenario, students must coordinate and arrange among themselves, divide responsibilities, and coordinate and promote to realize complementary abilities. It can be said that the spirit of cooperation is a basic quality that legal talents should have.

## **1.2 Extrinsic value of legal education in clinics**

Clinic legal education is based on real cases as the object of students' practice. The students' practice sessions are closely focused on real cases. Legal education in the clinic is open education and its external value is demonstrated.

For a long time, China's legal education has paid excessive attention to the teaching of theoretical texts and neglected the guidance and cultivation of students' practical ability. Although the case teaching method is also widely implemented in various universities, it is only a teaching work carried out on top of ready-made cases, which is more a test of students' mastery of theoretical knowledge and cannot achieve the effect of cultivating students' ability in social practice. Besides, according to the regulations of the Ministry of Education, law students must undergo a semester of internship and obtain internship credits before they can be considered to have completed their studies. However, such an internship is not as effective as it should be. It is a non-systematic learning process, and in many cases, students are only doing "odd jobs" in the internship, which does not enhance their abilities.

Undoubtedly, the traditional legal education internship approach cannot be compared to the clinic's legal education practice. Nowadays, the process of legal education practice in clinics is to let students get in touch with real cases that happen around them and provide legal assistance to the parties, to protect the legal rights of the parties and achieve social justice. Specifically, legal education in the clinic is a systematic work carried out with law students as the main educational subjects and with the guidance and assistance of clinic teachers.

The students start from receiving the clients of the cases and learn about the legal rights and interests of the clients. Students begin by receiving the parties to the case, understanding their claims and concerns; using evidence and deducing the facts of the case through meticulous logical reasoning; and, based on determining the facts of the case, finding a path to solve the legal problems that have plagued the parties for a long time by consulting the current legal regulations and discussing the application of the law with their teachers and classmates.

In such repeated practical operation and learning process, not only can learn to apply theoretical knowledge flexibly but also can help students to check and fill in the gaps of daily knowledge blind spots, at the same time, with the accumulation of practical experience, it can cultivate students' independent thinking and the ability to analyze and solve problems. The real process of following teachers to deal with cases is also the process of continuously developing legal thinking. The development of thinking is not something that happens overnight. It should be embedded in the entire learning process, creating a subtle influence. At the same time, students can also feel and adapt to the role of lawyers in advance, and better choose the future employment position suitable for them.

In conclusion, the purpose of legal education in the clinic is to help students apply their legal theoretical knowledge to guide social practice, and in practice, by examining the degree of students' legal theoretical knowledge mastery and discovering their knowledge deficiencies, to realize the organic combination of legal theory and legal practice and create legal talents who can meet the needs of society.

Clinic legal education creates a platform and provides opportunities for students to participate in social practice. From the perspective of social practice, students can directly face the judicial organs, understand the judicial reality, explore the direction of judicial reform, and enhance their sense of historical mission and responsibility; from the perspective of social life, students can directly enter the society, come into contact with the complex aspects of social life, understand the real face of social life, and lay a good foundation for their adaptation to the society; from the perspective of practical teaching, students can touch the bottom of the social groups, and can intuitively feel this.

From the perspective of practical teaching, students can touch the bottom of the social class and feel the hardship and suffering of these people, which can inspire students' passion to serve society.

## **2. The Dilemma of Applying Legal Education in Clinics**

### **2.1 Lack of talent in the faculty**

The main difference between clinic education and traditional legal education is the need for applied teachers with rich social practice experience to provide hands-on training to students, which makes the clinic-style law classroom in colleges and universities have an urgent need to build a "dual-teacher" faculty. However, in reality, the lack of "dual-teacher" teachers is an indisputable fact, which is the result of multiple causes. On the one hand, it is the singularity of the talent introduction standard. In recent years, when introducing teachers, universities pay more attention to the doctoral degree, academic level, and scientific research ability of teachers, and even take them as the only criteria for talent introduction, with little attention to the social practice ability of teachers to be introduced. Under such talent introduction concept, it directly leads to the faulty construction of the whole law faculty and departments being more inclined to theoretical level, which in turn causes a serious shortage of practice-oriented teachers in clinic law education. This has led to a serious shortage of practice-

oriented teachers in law clinic education. On the other hand, it is the reality of the difficulties faced by clinic teachers that discourages them from taking up the role of legal education in clinics. As university teachers, they have to consider the workload and title evaluation, which are related to their interests. Whether it is the criteria for calculating the workload or the conditions for the evaluation of titles, the research results are one of the important elements.

Due to the practical nature of legal education in clinics, it is bound to take up a lot of time for clinic teachers. In particular, clinic teachers often need to spend their spare time on practice supervision. This will certainly affect the normal development of the clinic teachers' research work. Given their interests, university teachers are generally reluctant to undertake the "time-consuming but not self-interested" clinic courses, and even if they undertake the task of legal education in clinics, they are not willing to devote themselves to it. The third aspect is that the conditions of external practical teachers are limited. In the face of the shortage of practical teachers, most universities have strengthened cooperation with courts, judicial administrative organs, legal aid centers, and law firms to solve the difficulties of the shortage of practical teachers. However, it should be noted that such a talent solution is not very smooth due to the limitation of the university's funds and the influence of the practitioners' work.

## **2.2 No incentives in place**

To a certain extent, clinic-based education is similar to allowing students to enter a law firm in advance and become a trainee lawyer, who is guided by a tutor to handle cases. This requires the tutor to be like a lawyer in practice, who can sacrifice his or her spare time at any time to give guidance to students according to the development of cases while the cases are changing rapidly, which tests no longer whether the theoretical courses of university teachers were excellent in the past, but moreover puts forward higher requirements on the practical experience and business level of clinic teachers.

Despite the problems facing clinic education, under the influence of current policies, faculty members of universities are still facing the status quo of title evaluation and selection of outstanding teachers according to research achievements, quality of academic articles, and several publications. The instructors' hard work in leading students to practice and exercising their practical skills are often overlooked or only verbally encouraged.

Likewise, full-time faculty members of universities who are qualified as lawyers often earn a good income from representing cases outside the university, while clinic education, costs a lot of time and energy, but there is no incentive mechanism to support it. In the long run, this unscientific method of calculating workload has suppressed teachers' motivation to engage in practice-based teaching, thus seriously affecting the development of clinic education.

## **2.3 Lack of funding security**

The main purpose of the "Excellence in Legal Education and Training Program" is to improve the quality of talent training, enhance the practical ability of law students, and vigorously cultivate applied

and complex legal talents to contribute to the construction of the rule of law in our country. The funding is the basis for the orderly development of the education work. To a certain extent, the clinical legal education model has relieved the pressure of legal aid funding, but it does not address the symptoms of the problem. Only by finding the root of the problem can we fundamentally get rid of the dilemma of legal education in clinics.

The practice-based nature of clinic legal education requires greater financial investment than traditional education models. At present, the main source of legal funding for university clinics is government as well as school grants, and the difficulty and low cost of such grants make it difficult to carry out the work of legal clinics. Furthermore, both government funding and school support for legal clinics are often in the form of post-case filing. Specifically, the case is completed and the case file is submitted for review and approved before faculty and students can receive a stipend for casework through reporting. This means that when out on a case, faculty and students have to advance funds until the case is completed and then wait to be reported for approval. In the process of reviewing and approving the grant, the school's finance department is generally unable to accept and substantiate the costs of communication, determination of hours worked, and labor costs such as paperwork for teachers and students while working on cases. The only reassurance to clinic staff is the determination of transportation and lodging costs.

Also, the low level of social interest in legal education in clinics is one of the reasons for the severe underfunding. The effective way to expand the funding of clinic legal education is to enhance the social influence of clinic legal education through continuous and extensive social propaganda and to arouse the resonance and support of the society. We can also learn from the model of the Ford Foundation's sponsorship of legal education in clinics in the United States to solve the problem of insufficient funding for education.

### **3. Measures for the Application of Legal Education in Clinics**

#### **3.1 To Strengthen the legal clinic faculty**

The level of legal clinic teachers directly affects the quality of legal education in the clinic, therefore, strengthening the construction of legal clinic teachers is the primary task at present. To strengthen the construction of legal clinic teachers, the following aspects can be carried out.

First of all, the talent selection standard of giving priority to academic qualifications should be abandoned, and more realistic teacher introduction standards should be formulated by the law of legal education and combined with the goal of legal talent training.

"The life of law lies inexperience and not in logic." Practical teaching is the meaning of legal education. Only through extensive practical teaching can we truly cultivate applied legal talents that meet the needs of the country. The foundation of practical teaching lies in a team of teachers with rich practical experience. Therefore, when selecting and recruiting teachers, we should not only consider their



academic attainments but also pay attention to their social practice ability. As a useful experiment and exploration of practical teaching, clinic legal education requires especially practical teachers. Therefore, when selecting and introducing talents, we should change the previous viewpoint of favoring academic instructors and emphasize the combination of theoretical attainments and practical abilities of teachers in the selection and appoint teachers with both professional knowledge and rich practical experience to teach in the clinic.

Secondly, to carry out internal tapping, based on the existing faculty, to focus on training several teachers with rich practical experience and strong practical ability. Article 12 of China's Lawyer Law stipulates that those who are engaged in legal education and research in institutions of higher learning and scientific research institutions and meet the conditions stipulated in Article 5 of this Law may apply for part-time lawyer practice upon approval of their units (Qi 2015). In this way, universities should formulate a set of incentive mechanisms for law teachers to encourage them to actively take the legal professional qualification examination, to obtain favorable conditions for participating in practice activities. At the same time, colleges and universities should also open the door for teachers who are qualified to practice as lawyers and encourage them to go out of school to participate in social practice activities without affecting their normal teaching work, to further improve their theoretical level and practical ability and better meet the needs of practical legal education. Undoubtedly, in the clinic education, this part of teachers will play an irreplaceable backbone.

Again, schools should strengthen cooperation with courts and law firms to solve the problem of the lack of practice-oriented teacher talents in clinical legal education. This is a mutually beneficial cooperation mechanism. Introducing long-term practitioners to participate in clinical legal education will be beneficial to clinic students' practice and can fundamentally solve the problem of insufficient legal clinic teachers (Huang 2017). With the help of university education resources, it can also provide theoretical training for practitioners. However, in the process of using social forces to run the school, careful arrangements should be made for the teaching plan to ensure that the teaching work of the external teachers in the clinic does not conflict with their work. In particular, it is necessary to consider the impact on the clinic education work due to the temporary adjustment of the external teachers' professional work and formulate a set of coping mechanisms to ensure the normal development of the clinical legal education work.

### **3.2 To establish an effective incentive mechanism**

A long-term and efficient incentive mechanism is important if we want to motivate university teachers for clinic education and thus ensure the flourishing of practical legal education.

At the level of legal clinic faculty, the construction of incentives should include their concerns in the assessment. Objectively speaking, university teachers are most concerned about the calculation standard of workload and the evaluation of their titles, which are directly related to their year-end performance appraisal, salary adjustment, and the improvement of their teaching status. Since the

teaching tasks undertaken by law clinic teachers include classroom teaching and social practice guidance, the workload of law clinic teachers should be calculated separately when accounting for the workload. For the classroom teaching hours, the existing regulations of the school can be implemented; for the practice guidance work, since it is impossible to quantify the length and the time and energy costs invested by the legal clinic teachers are high, each guidance work can be calculated by 3-4 class hours. When the case is completed, according to the effectiveness of the students' work and the evaluation of the parties, the law school (department) will organize experts to evaluate and report to the relevant departments of the university for review, and decide whether to give the corresponding score according to the scientific research rating standard or to give certain rewards according to the scientific research award standard. In this way, the enthusiasm and initiative of law clinic teachers can be truly mobilized. Of course, legal education in the clinic is not purely practical teaching which is separated from legal theory, and the school should also introduce relevant policies to allocate a certain amount of money from the scientific research fund to support legal clinic teachers to find out problems in legal education in the clinic, to declare projects and issues related to the legal clinic, to do more useful discussions with more scholars, to complete scientific research tasks, and to solve the worries of legal clinic teachers' title evaluation.

### **3.3 To seek diversified sources of funding**

To make the funding problem solved, the joint efforts of government, society, and universities are indispensable. Only with the concerted efforts of the three parties can we change the status quo, broaden the sources of funding, and let clinic education play its proper role.

The fact that legal education in clinics has to some extent alleviated the problem of high pressure on government legal aid reinforces the need for government funding for it. In response to the advances made by clinic teachers and students in handling cases, and because the practice activities of clinic students are characterized by legal aid, part of the legal aid funds can be allocated to the relevant universities for the clinic's activities, and then the corresponding case files can be accounted for. In this way, the effective implementation of legal education in the clinic can be ensured, and the students' active participation in the practice can be enhanced to the greatest extent. Secondly, social related organizations and law foundations should cooperate with the school to make good publicity to social groups and organizations, law firms, and related enterprises, to get more social attention and resources. For example, schools can establish corresponding cooperation projects such as internship bases with law firms, and the law firms can fund the construction of legal clinics for schools. The university law clinic can get financial support from the law firm, and the law firm can also reduce the pressure of the firm's lawyers by introducing some university law students to participate in case processing. Of course, in the process of using the funds, law clinic teachers and students should also advocate frugality, so that the funds can be used in the right way. Finally, the university level needs to adjust the current situation of school expenses accordingly, and part of the research funds can be used to build the clinic and change the traditional teaching concept in the past.



## CONCLUSION

In conclusion, the future development of legal aid in colleges and universities has a long way to go. The formation of volunteer legal aid teams for college students, the speeding up of information of legal aid services in colleges and universities, the improvement of the legal aid fund guarantee system, the construction of the legal aid system in colleges and universities, and the establishment of the legal aid system in colleges and universities. Combining legal clinics with university legal aid to show the characteristics and values of the future development of university legal aid.

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