



Ideological and Political Education in Legal Course: A Case Study of the Teaching Practice of “Civil Procedure and Arbitration” in Shenzhen Polytechnic

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Abstract: Ideological and political education should be integrated with professional education, and this is especially true in the higher vocational education in China. To improve the standard of such integration in the future, the importance of the feedback and the evaluation of the teaching practice are the same as the curriculum design. This work would, through demonstrating the teaching practice of "Practice of Civil Procedure and Arbitration" and the feedback of students, discuss the appropriateness of the integration made and the methods which should be adapted in the future for a better effect.

Keywords: socialism with Chinese characteristics, ideological and political education, legal professional education, teaching practice and feedback, integration

1. The background and preparation

The importance of ideological and political education in Chinese higher education is axiomatic, for it is not only an important political task but also a safeguard for the development of education in socialism with Chinese characteristics. The authors of this work undertook the teaching of “Practice of Civil Procedure and Arbitration” (“the module”) in the second semester of 2021-2022 in Shenzhen Polytechnic (“SZPT”). Due to the importance of ideological and political education, the authors carefully designed the curriculum of the course and wished to make integration of legal professional education with ideological and political education.[1]

It needs to be noted that one of the authors is a qualified lawyer while the other is a full-time lecturer of law, and the combination of legal practice experience and teaching methodologies is an advantage to proceed the integration, for that the teaching staff is the fundamental elements of the integration.[2] Therefore, in addition to the designed curriculum, the authors also prepared abundance of practicing materials for the improvise teaching, such as reported judgments, official documents from courts and video materials from Guangzhou Maritime Court.[3] Although the ideological and political education has its independent system[4] it shares the nature of social science with legal courses and the teaching staff shall have faith to make the integration if the key elements the legal course could be properly found.[5]

2. Integration and feedback in teaching practice

Before moving to the substantive issue of this work, it is necessary to briefly illustrate the actual curriculum (see Table 1), and this work would focus on the introduction and feedback of the integration of the first half semester due to the length. Notably that compared with the teaching hour during the curriculum design, the actual time used was slightly different.

Table 1. the Syllabus, teaching hour and elements for integration (the first half semester)

| No. | Topic | Teaching Hour | Elements /methodology for Integration |
|---------------------------------------|---|---------------|---|
| The First Half of the Semester | | | |
| 1 | Civil disputes resolution and Civil Procedure Law | 6 | Fair and equality /comparative study |
| 2 | Lawsuits and Litigation Rights | 4 | Development; confidence in the great country / comparative study of anti-suit injunction in other jurisdictions; |
| 3 | Basic Principles in Civil Procedure Law | 3 | Good faith, judicial openness/ Practice (online litigation system); A case study (the PENG Yu case) |
| 4 | Basic Systems in Civil Procedure Law | 3 | |
| 5 | Jurisdiction | 8 | Reform and Opening Up; Respecting the old and cherishing the young / A case study (“the heavy metal music case”) |

2.1 The Background Characteristics of Students

The module is arranged at the second academic year for law students in SZPT. There are three departments of procedure laws on the compulsory course list for law, viz Administrative Procedure Law, Criminal Procedure Law, and Civil Procedure Law. Students had finished their study of the first two modules, as well as substantive Civil Law and Jurisprudence when Civil Procedure Law took place. Therefore, they were considered to have basic understandings of procedure laws and basic civil rights and obligations. The teaching practice and feedbacks for each topic in the module are as follows.

2.2 Civil disputes resolution and Civil Procedure Law

This is the first topic and an overview of the whole module. The main professional teaching content is to introduce different of civil disputes resolutions.

Considering the fact that students had completed the courses on the other two procedure laws, the authors chose the key elements of “fair and equality”, and the integration was then proceeded through the comparison of the burden of proof between civil procedure law with administrative procedure law and criminal procedure law. Students were firstly told that it was widely accepted that the nature of litigation was a fair confrontation between two parties while the court was in the middle. In order to achieve the principle of fairness when one party was more powerful (such as People's procuratorates), the procedure design should be made in favor of the other. In administrative procedure law and criminal procedure law the public authorities and the People's procuratorates should bear the burden of proof, while in the civil litigation, where litigants had the equal status, the burden of proof was known as “semper necessitas probandi incumbit ei qui agit (he who claims shall bear the burden of proof)”. This integration was successful, for students were able to deeply understand the embodiment of the "equality principle" in different legal departments through a very natural teaching methodology.

The authors then made introduction on the civil dispute resolution systems from the perspective of relief category. More weight was put on mediation because there were multiple commercial mediation centers in Shenzhen, the first pilot zone for socialism with Chinese characteristics, and the efficient commercial mediation could be considered as an important characteristic.

Several weeks after the first class, Shenzhen government promulgated “Regulations on the Diversified Resolution of Conflicts and Disputes in Shenzhen Special Economic Zone”. [6] Pursuant to the Regulation, municipal and district people's governments and people's courts in Shenzhen were required to encourage diversified dispute solutions other than litigation. This Regulation would become an important point for this topic in the future. Through promulgating the Regulation, Shenzhen government illustrated the nature of the law-based governance and more elements for ideological and political education, such as “to deepening reform and opening up”, “govern for the people” and “to promote social harmony and stability” could be adopted. The integration through this new regulation would focus on strengthening students' confidence on the development of law-based governance and to augment confidence in their future study of law.

2.3 Lawsuits and Litigation Rights

The topic is on the classification, constitutive elements of the civil litigation and the legitimate exercise of the right to seek for civil remedy, which is known as “the title to sue”.

Through a discussion before the class, it was noticed that students understood that the right to seek for judicial remedy was fundamental. Therefore, the authors started the class with the introduction on the anti-suit injunction in English law [7] which would bring severe influence on the fundamental right to sue. In brief, English courts were empowered to grant an anti-suit injunction to restrain foreign proceedings, and it may prohibit a party from commencing or continuing proceedings. The consequences for violating were serious, for it constituted a criminal offence of contempt of court. This injunction was widely used in maritime cases where arbitration clauses were always incorporated into the bill of lading while Chinese court confirmed its jurisdiction and held the incorporation to be invalid. [8] Historically, there were cases where claimants, due to the lack of effective counter measures and the fear of sanctions imposed by English court, were forced to either negotiate reluctantly with applicants of anti-suit injunctions or to withdraw Chinese proceedings. However, following the development of China this was no longer the case, and the leading case where Wuhan Maritime Court held that the application of the anti-suit injunction should be withdrawn by its applicant was brought in. [9] From the perspective of ideological and political education, students were taught that because of the enhancement of the national comprehensive strength of China and the improvement of the construction of law-based governance, Chinese courts obtained effective responses against the "long-arm jurisdiction", and the authors believed this learning could establish the students' confidence of the great country, the confidence of law-based governance and the confidence of professional study.

2.4 Basic Principles and Basic Systems in Civil Procedure Law

The contents of professional education in these two topics are clearly stated in articles of Civil Procedure Law. Since the law students in SZPT are mainly trained to be legal auxiliary persons such as clerks, stenographers and judge assistants. Therefore, the authors focused on the principle of good faith and the practice ability to use online litigation system.

In order to make the learning and the understanding of the principle more practical, the authors introduced the requirements of professional ethics for judges and lawyers, as well as the requirements and materials edited by Shenzhen Lawyers Association for the interview and assessment of apprentice lawyers in the year of 2021. While for the online litigation systems, the author exhibited the website of China Trial Open Online, demonstrated how to establish a case through Guangdong court litigation network [10] and the Wechat mini program “Online Services of the Peoples’ Courts”. It was noticed by the authors that students were attracted by these online systems. Additionally, through the feedback of the colleague lecturer in the legal research course, they felt impressive by this teaching methodology.

Comparing with celebrating the achievement of the construction of legal environment, it was also important to point out some inadequacies caused by the negligence of judicial openness, and therefore, the authors decided to make a detailed introduction and discussion of the notorious “PENG Yu case in Nanjing”. The fact of “PENG Yu case” was simple: in 2006, Mr. PENG Yu helped a senior citizen while the latter accused him of knocking her down. Despite the lack of evidence from the injured, the trial judge from Nanjing Gulou District Court ruled that it was the “common sense” that only the person who hit the victim would take the injured to the hospital, and held that PENG Yu was liable to make a compensation for about CNY 50,000. The trial judgment received widespread media coverage, engendering public outcry over the controversial decision. [11] And worse, it became a precedent that continued to discourage Chinese people’s sympathy to help others in similar situations. The authors stressed on the class that the professional knowledge of “proof” would be considered in following lectures, while in the present class students were invited to pay more attention to “judicial openness and transparency”. In fact, the authors were shocked due to the fact that not a single student knew the fact that PENG Yu, during preparation for the trial of the second instance, admitted that he did hit the injured.[12] The authors reminded students that there was an increase in incidents involving elderly individuals falsely accusing helpful bystanders grew as a trend in the media’s reports after the trial judgment of PENG Yu was published. A discussion on the judicial openness and the privacy in settlement was held on class, and in the future the authors would like to furnish the discussion.

2.5 Jurisdiction

This topic was the first key and difficult point encountered during the teaching process. The complicated content of the professional education would cost a considerable amount of time while it would also make students exhausted. The authors chose the following points from the professional knowledge of the theme to make integration, for reasons that those points were able to create lively atmosphere, to ease the students’ fatigue caused by the professional knowledge and to strengthen the impression on both professional knowledge and ideological and political virtues. These points were “enforcement of foreign-related awards” in the subsection of jurisdiction by level, “recourse of alimony” in the subsection of territorial jurisdiction.

For the enforcement of foreign awards, the authors discussed the Tom Hulett case where playing heavy metal music was held to be contradictory to the China’s actual conditions and thus contravened China’s socio-public interests in early 1990s. This case study made the atmosphere active because students felt the decision was absurd. The authors then proceeded on the professional and ideological and political analyze of the case. On the one hand (professional), the application of enforcement of arbitration award shall be governed by intermediate people’s court, and the application would be reviewed by high people’s court if the award is foreign-related, moreover, if the high people’s court opines that the application would be rejected, the case should be presented to the Supreme People’s Court (“the SPC”) and the SPC shall make the ultimate decision. And on the other hand (ideological and political), the historical background of the case reflects the importance of remaining committed to deepening reform and opening up and would invoke students’ reflective thought.

“Respecting the old and cherishing the young” was the traditional virtue of the Chinese nation, and that virtue was embodied in various legal provisions in the Civil Procedure Law. From the perspective of jurisdiction, this was presented by the exception of “actor sequitur forum rei”. In the case of the recourse of alimony, payment of maintenance and payment of upbringing, if several defendants are not in the same jurisdiction, the people’s court at the location of the plaintiff’s domicile shall have the jurisdiction. The authors emphasized the superiority of the socialism with Chinese characteristics and legislators’ humanistic care for hot social issues during the teaching of abovementioned professional knowledge. By confirming the jurisdiction of the people’s court at the plaintiff’s domicile, it is able to effectively reduce the litigation burden of the right holder of the payment of alimony, maintenance, and upbringing, moreover, it could also achieve the purpose of resolving disputes intensively, which fully reflects the institutional care of socialist countries under the rule of law.

3. Conclusion

After exploring the method of the integration in last academic year, it is safe to conclude that the integration of legal professional education and ideological and political education could be successfully made, and it could receive remarkable effect. Additionally, it would yield twice the result with half the effort if appropriate legal practitioners are able to join the course. The Chinese Ministry of Education once stressed that the professionals of ideological and political education shall be cultivated while the pilot projects for ideological and political education shall be established. [13] However, it has to be pointed out that the actual effect and the importance of the integration is underestimated compared with the specialized ideological and political education. From one hand, the authors wish to find official encouragement of integration in the future as well as more detailed guidelines and aids from specialized professionals of ideological and political education (such as teaching staff from School of Marxism); while for another hand, the integration should not be treated as “compulsory burden” for the professional education, and therefore an appropriate evaluation system will be necessary.

References

- [1] Chaoyan QU, Riyao LIU. Research on ideological and political education in legal course: a case study on the curriculum design of Practice of Civil Procedure and Arbitration in Shenzhen Polytechnic[J], *Region - Educational Research and Reviews*, 2022,4(4), pp.5-9.
- [2] LIU Ying, Discussion on Ideological and Political Practice of "Administrative Law and Administrative Procedural Law" Course[J], *Teacher*, 2021-04, pp. 105-106.
- [3] <http://tingshen.court.gov.cn/court/review/2701?courtLevel=2> [EB/OL] [2022-11-25].
- [4] LI Hanyan, The Realization Path of Ideological and Political Education in Law Course of Applied University- A Case Study of Marriage and Family Inheritance Law[J], *Journal of Yuzhang Normal University*, 2021-1, pp.71-77.
- [5] CHEN Chen, On the Ideological and Political Construction of University Law Course-Take Contract Law Course as An Example, *Journal of Guangxi Administrative Cadre Institute of Politics and Law*[J], 2021-3, pp.124-128.
- [6] Regulations on the Diversified Resolution of Conflicts and Disputes in Shenzhen Special Economic Zone (Effective on 1st May, 2022).
- [7] Senior Courts Act 1981 of the UK (1981 c.54).
- [8] SERVICIOS JHS v. MASTER BULK PRIVATE LIMITED 2013 C.A. (2018) Hu 72 Minchu No.516, see also China Pacific Property Insurance Co., LTD. Suzhou Branch v. RIZZO BOTTI GLIERIDECARLINI ARMATORI S.P.A (2015) Wu Haifa Shang Zi No.00619.
- [9] Huatai Property Insurance Co., Ltd., Shenzhen Branch, v. CLIPPER CHARTERING SA (2017) E 72 Xingbao No.3.
- [10] <https://ssfw.gdcourts.gov.cn/> [EB/OL] [2022-11-25].
- [11] Melody W. Young, The Aftermath of Peng Yu: Restoring Helping Behavior in China [J/OL] *Washington International Law Journal*, 22 Pac. Rim L & Pol'y J. 691 (2013). <https://digitalcommons.law.uw.edu/wilj/vol22/iss3/9>
- [12] http://www.rmfyb.com/paper/html/2017-06/15/content_126631.htm?div=-1[EB/OL] (2017-6-15) [2022-11-25].
- [13] Ministry of Education of the PRC. Implementation of the Spirit of the National Conference on Ideological and Political Work in Colleges and Universities [EB/OL]. (2021-12-07) [2022-11-25]. http://www.moe.gov.cn/fbh/live/2021/53878/sfcl/202112/t20211207_585342.html