

The Application of the Original Teaching Method of Bilingual Course Cases in the Perspective of Cultivating Foreigner Legal Talents

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Abstract

Since the Fourth Plenary Session of the 18th Central Committee of the Communist Party of China, the Party Central Committee with Xi Jinping as the core has repeatedly emphasized the need to strengthen the training of foreign-related legal talents. In this context, the importance of bilingual legal courses has become more prominent. To effectively improve teaching effectiveness, the case based original text teaching method should be introduced. The original case texts include international law case texts and country law case texts from important countries or regions such as the United States and the European Union; When teaching, the method of intensive reading should be adopted, under the careful organization of the teacher, which is to achieve a one-stop acquisition of legal professional knowledge and language skills through three processes: preview in advance, intensive classroom teaching, and reinforcement after class. This teaching method integrates the acquisition of substantive law knowledge, procedural law knowledge, and other disciplinary background knowledge.

Keywords

Foreign-related Legal Talents; Bilingual Classes; Original Case Study; Intensive Reading.

1. Introduction

Since the Fourth Plenary Session of the 18th Central Committee of the Communist Party of China, The Party Central Committee, with Comrade Xi Jinping at its core, has issued a series of important instructions and work arrangements for promoting the rule of law in foreign affairs and strengthening the cultivation of talents in this field. The Decision of the Central Committee of the Communist Party of China on Several Major Issues Concerning the Comprehensive Promotion of Rule of Law clearly proposes the construction of a team of foreign-related legal talents who are familiar with international legal rules and skilled in handling foreign-related legal affairs. The report of the 20th National Congress of the Communist Party of China once again pointed out the need to "coordinate the promotion of domestic and foreign rule of law.". In February 2023, the General Office of the Communist Party of China Central Committee and the General Office of the State Council issued the "Opinions on Strengthening Legal Education and Theoretical Research in the New Era", which pointed out that "we should accelerate the cultivation of talents with an international perspective and proficient in international law and national law in the field of foreign-related rule of law."

In order to implement the spirit of the above instructions and strategic deployment, the Ministry of Education, together with relevant departments, has issued a series of documents. In fact, as early as 2011, the Central Political and Legal Affairs Commission and the Ministry of Education jointly issued the "Several Opinions on Implementing the Education and Training Plan for Excellent Legal Talents", which proposed "taking the training of foreign-related legal talents as a breakthrough point for cultivating applied and composite legal professionals." Since 2018, a series of documents such as the "Excellent Legal Talents Education and Training Plan

2.0", "Implementation Opinions on Accelerating the Training of Foreign-related Legal Talents in Universities", "Notice on Carrying out the Construction of Innovative Bases for Collaborative Training of Foreign-related Legal Talents", and "Reform Plan for Adjusting and Optimizing the Professional Setting of General Higher Education Disciplines" have all made provisions for the training of foreign-related legal talents. However, so far, out of approximately 600000 lawyers in China, only two to three thousand are engaged in foreign-related business, resulting in a huge talent gap. The importance and urgency of accelerating the cultivation of foreign-related legal talents have reached an unprecedented level.

In the process of cultivating foreign-related legal talents, the importance of bilingual courses in the field of law is beyond doubt. It is particularly crucial for cultivating the core competency goal of "elite legal literacy" (proficient in legal English and clear understanding of international law). However, although the Ministry of Education has encouraged universities to carry out bilingual teaching in the field of law since 2001, the teaching effectiveness of bilingual courses in the field of law is not ideal in reality due to various factors such as bilingual curriculum design, faculty capacity, teaching methods, student English proficiency, and textbook construction, and the quality of training foreign-related legal talents is difficult to guarantee. Undoubtedly, to fundamentally solve this problem, multiple approaches are necessary. However, in order to avoid being comprehensive and vague, this article only focuses on the reform of teaching methods for bilingual courses in the field of law. It is believed that international law or case studies of important countries or regions such as the United States and the European Union should be introduced into the teaching of bilingual courses in the field of law for intensive reading. The reason why it is necessary to carefully read the original text of international law or country law cases is that without a deep understanding of the specific application of relevant international law or country law rules in practice, the understanding of relevant rules or concepts can only stay on paper, and the students trained are difficult to become foreign-related legal talents who truly grasp and can actually apply foreign legal rules. They are unable to provide professional and high-quality foreign-related legal services to Chinese subjects in international economic or trade disputes.

2. Definition of Case Text Teaching Method

Given the strong practicality of the legal discipline, the application of case teaching method in legal education is very extensive. But case teaching is just a general term, and the specific methods adopted by teachers in different countries or the same country at different stages of education are not entirely the same. If some scholars point out that the three most representative case teaching models are the "case teaching method" in the United States, the "appraisal based case study" in Germany, and legal clinic education, they believe that the case whole process teaching method should be introduced in legal education in universities. This article believes that, based on the comprehensive reference of relevant case teaching methods, combined with the goals of cultivating foreign-related legal talents and the characteristics of undergraduate legal education, the original case teaching method should be introduced in bilingual legal courses.

2.1. The Connotation of Case Text Teaching Method

Case based original teaching method refers to a teaching method in which teachers select and provide students with foreign language original cases related to international law or national law based on specific bilingual legal courses. Through the process of pre reading, classroom lectures, in-depth discussions, and summarization, legal English is integrated with departmental legal professional English, legal knowledge of various departments involved in the case is integrated, legal knowledge is integrated with background subject knowledge, and

language ability, professional knowledge, theoretical literacy, and practical skills are acquired in one.

2.2. Specific Explanation of the Teaching Method of Case Text

Specifically, the definition of the case text teaching method needs to be approached from two levels: "case text" and "intensive reading". On the one hand, the so-called "original case text" refers to first-hand case documents that have not been cut or edited, such as the indictment, judgment, and penalty decision of real cases outside the jurisdiction. Firstly, in terms of the scope of extraterritorial cases, Professor Zhang Falian pointed out that the "international law" that foreign-related rule of law talents need to clarify is not only referring to "international law", but also includes the national or regional laws of important countries (regions), mainly the legal norms and systems that operate or apply in key countries or regions such as the United States law, European Union law, British law, and Japanese law. Therefore, extraterritorial cases are not limited to international law cases, but also include important national law cases such as US law and EU law, such as *Epic Games v. Apple* (2022) in the US and *Google and Alphabet v. Commission* (2021) in the EU. Secondly, the cases provided by teachers to students should be the original text of judicial judgments or administrative enforcement decisions, and should be the full text, rather than second-hand cases translated into Chinese, or cases that have been edited, extracted, processed, or even adapted by teachers. This can avoid errors in second-hand translation materials and allow students to truly access and fully understand first-hand legal documents from outside the domain, allowing them to engage in immersive learning with almost situational experiences and experience the legal culture behind the cases.

On the other hand, in teaching, the method of intensive reading should be adopted, which is different from traditional case teaching methods such as "case teaching method" and "appraisal based case study method". In classroom teaching, teachers do not directly abstract and extract complex cases into specific theoretical problems, and carry out teaching activities centered on theory. Instead, through in-depth explanation of the litigation procedure issues, legal background knowledge, and substantive law professional knowledge involved in the cases, a case bridge is built for theory, rules, and practice, so that students can use cases to have a deeper understanding of the foreign professional vocabulary, legal theory and practice rules, and related backgrounds involved, and create a deep learning process. For example, when introducing the classic or latest precedents of the United States Supreme Court on antitrust law in the bilingual competition law course taught by the author, before entering the substantive law lecture, the structure of the United States Supreme Court judgments should be explained, and the legal background knowledge required to read the judgments of the United States courts should be introduced, such as the citation format of precedents and the October Term of the United States Supreme Court.

However, it should be noted that due to the difficulty of undergraduate students learning English original case studies, on the one hand, the original case teaching method should usually be targeted at senior undergraduate students, and on the other hand, it does not require students to write relevant legal documents based on case materials. In other words, this teaching method does not adopt the model of legal clinic education or simulated court, allowing students to simulate various litigation activities as parties, lawyers, or judges. Instead, after sufficient preparation, under the careful organization and guidance of the teacher, they participate in classroom questioning or discussion, and finally, the teacher extracts and summarizes them.

3. The Value of Introducing Case Text Teaching Method into Bilingual Law Courses

As mentioned earlier, although the Ministry of Education has encouraged law schools in universities to offer professional bilingual courses in a series of documents since 2001, the results have not been ideal so far. The reasons for this practical dilemma are certainly multifaceted, but whether from a methodological perspective, or from the perspective of course content construction or course integration, the introduction of the case based original text teaching method is very necessary. It can not only directly enhance teaching effectiveness through teaching method reform, but also achieve various value goals such as optimizing and improving the course content system, synchronous learning of legal English and professional knowledge, one-stop acquisition of substantive law knowledge, procedural law knowledge, and disciplinary background knowledge.

3.1. Optimize and improve the curriculum content system to make up for the common lack of bilingual legal textbooks

As is well known, a common dilemma faced by the construction of bilingual legal courses in ordinary Chinese universities is the lack of bilingual course materials. The lack of bilingual course materials can lead to inconsistent and unsystematic teaching content in different universities for the same bilingual course, inability to guarantee the quality of teaching content, and a lack of evaluation standards for teaching content, which cannot ensure the correctness, accuracy, professionalism, and rationality of bilingual teaching content in law.

However, the construction of bilingual textbooks is not something that can be achieved overnight. Before the establishment of a systematic and high-quality bilingual course textbook library, selecting foreign cases for a specific department's legal field can help fill the gaps, fill the gaps, and to some extent unify the knowledge system and improve the content system of bilingual legal courses. Firstly, the original text of foreign case studies ensures the correctness of the teaching content, effectively preventing deviations in knowledge points and errors in English expression, being unprofessional or not authentic. Secondly, the selected cases from outside the domain often have a certain degree of representativeness and are commonly familiar to teachers in relevant professional fields, which can also solve the problem of inconsistent teaching content to a certain extent. Finally, a comprehensive exposition, reasoning, and argumentation of the legal issues involved in the case by both the judge and the parties involved in the original text of extraterritorial cases can provide students with the most intuitive, complete, and systematic understanding of relevant legal professional issues, which is an indispensable part of the bilingual curriculum teaching content system. A complete judgment of the United States Supreme Court typically consists of a majority opinion (or opinion of the course) and a dissenting opinion, sometimes including a concurrent opinion. The so-called majority opinion refers to the opinion of the majority of judges in the case, and also represents the final opinion of the court. Objections are opinions written by judges who hold different views and submitted to the court. Collaborative opinion, according to the interpretation of the Yuanzhao English French Dictionary, refers to the individual opinion of one or a few judges who agree with the judgment made by the majority of judges, but provide different reasons for the basis of the judgment. Therefore, in a complete judgment, judges who hold a majority opinion, judges who hold opposing views, and judges who hold a collaborative opinion will debate the legal issues involved from both positive and negative aspects and multiple perspectives, which can enable students to comprehensively, completely, accurately, dialectically, and systematically understand relevant legal knowledge.

3.2. Integrating departmental law with English to achieve one-stop acquisition of "professional knowledge+language skills"

Based on the concept of Content Based Instruction (CBI), language teaching should rely on meaningful knowledge content to improve students' language abilities, shifting from learning the language itself to using language for meaningful communication and learning through learning subject knowledge. Therefore, with the help of case study teaching method, students can achieve a one-stop acquisition of "professional knowledge+language skills".

As is well known, in addition to bilingual education in the field of law, legal English courses are also an indispensable course for cultivating foreign-related legal talents. However, although both involve knowledge in English and law, the two types of courses are not the same and each has its own emphasis. As some scholars have pointed out, legal English courses are essentially professional foreign language courses, mainly focusing on the mastery of legal language and the learning of legal professional terminology. They belong to the category of general legal foreign language courses, while bilingual courses in the field of law have the triple attributes of "disciplinary specialization, course clustering, and teaching language richness". In other words, the focus of the former is on legal English, rather than legal knowledge itself; The latter focuses mainly on learning legal knowledge, with language acquisition as a supplement.

In addition, although both types of courses will simultaneously involve knowledge of extraterritorial law and legal English, their breadth and depth differ greatly. Although the specific content taught in legal English courses in various universities is not entirely the same, it mainly provides a brief introduction to basic systems such as English and American legal culture, judicial system, constitution, contract law, tort law, criminal law, etc. Due to the limitations of class hours, the content is often very simple and fragmented, and most students can only master simple English and American legal language in the end. With the help of the original case teaching method, bilingual courses in the field of law can enable students to consolidate their knowledge of legal English while gaining a comprehensive and in-depth understanding of rules in a specific field, and further enhance their language skills based on the content of the law major they have studied.

In terms of acquiring professional knowledge, the case study teaching method can enable students to gain a comprehensive and in-depth understanding of legal knowledge related to the issues involved in the case. The main legal issue involved in the classic case of US federal antitrust law, *Leegin* (2007), was the illegality judgment of Resale Price Maintenance (RPM), which overturned the 1911 DR The per se rule established in the *Miles* case suggests that the legitimacy of restricting resale prices should be evaluated using the rule of reason. This case not only marked a watershed for the illegality determination of RPM in the United States, but also had a significant impact on the application of China's antitrust laws. For example, in the *Beijing Ruibang v. Shanghai Johnson&Johnson* case in China (2013), the Shanghai Higher People's Court and the Shanghai Intermediate People's Court adopted the same judgment stance as in the *Leegin* case. Therefore, by studying the original text of this precedent, students can not only see the different opinions and intense debates of the Supreme Court justices on this issue, as well as the evolution of the PRM illegality determination rule in American judicial practice since 1911, but also gain a deeper understanding of the judge's stance and fundamental reasons in relevant anti-monopoly law cases in China.

On the other hand, the case based original text teaching method has a multi-level effect on improving language skills. Firstly, it can better connect with legal English courses, consolidate the English and American legal language taught in legal English courses, and enhance memory. For example, in the *Leegin* case, due to the overturning of the 1911 precedent in the ruling, there was a heated discussion between the majority opinion written by Justice Kennedy and the dissenting opinion submitted by Justice Breyer on the principle of following precedent in

American law; Secondly, one can acquire professional English expressions for specific departmental laws and master language knowledge that cannot be covered by legal English courses, such as a set of specialized terms in the field of antitrust law: rule of reason and per se rule/illegality; Thirdly, it is possible to obtain integrated training in vocabulary and grammar, by studying the original text of judicial documents and mastering relevant vocabulary in formal legal documents

3.3. Breaking through course boundaries and achieving integrated learning of "substantive law+procedural law+background knowledge"

In addition to achieving a one-stop acquisition of professional knowledge and language skills, the case study teaching method can help break through the boundaries between law courses in various departments, and be problem oriented, breaking down disciplinary barriers and achieving integrated learning of "substantive law+procedural law+related disciplines". In traditional departmental case teaching, a complete case is often tailored around specific knowledge points, and relevant case content is selected and processed for teaching. This model certainly has its advantages, but fragmented case teaching sometimes fails to arouse students' interest and is not conducive to helping students establish strong correspondence and connections between knowledge points and cases. The effect of using cases to deepen understanding and strengthen cognition is insufficient, and the formed knowledge system is also difficult to integrate.

On the basis of having a certain knowledge of departmental law, the original case teaching method creates a complete case scenario, allowing students to deeply understand the organizational rules of judicial institutions and procedural rules of litigation in countries or regions outside the United States, the European Union, etc. through learning about the specific trial process of a case. At the same time, a case may involve substantive law rules of different departmental laws, such as Dr The Miles case, although a case in the field of antitrust law, also involves the "invalidity of restrictions on property resale" rule in US common law, thus achieving the effect of integrating substantive law rules from various departments with a problem centered approach. In addition, the original case teaching method can also enable students to have a certain understanding of basic subject knowledge and industry information beyond the legal knowledge involved in the case. In the "Google Android case (2022)" released by the European Court of Justice, the judgment provided a detailed explanation of Google's business model and how it excludes and restricts competitive behavior through the binding implementation of three sets of protocols: Mobile Application Distribution Agreements (MADAs), Anti Fragmentation Agreements (AFAs), and Revenue Sharing Agreements (RSAs). This is very beneficial for students to learn the industry background knowledge of legal issues involved in the case and understand the underlying logic of digital market competition. Only by truly understanding these basic principles can accurate value precedents be made at the legal level and legal rules be correctly applied.

4. The Specific Application of Case Text Teaching Method in Bilingual Law Courses

Based on the author's experience in teaching bilingual courses in law, the specific application of case study intensive reading method should mainly revolve around two issues: "what is intensive reading" and "how to conduct intensive reading", namely how to select cases and how to organize the teaching process.

4.1. The Three Principles of Case Selection

In order to ensure the effectiveness of the teaching of intensive reading of original case studies, this article believes that the selection of cases should follow the three principles of authority,

classicism, and cutting-edge. Firstly, the authority of case selection. The authority of a case often comes from two aspects. One is the formal authority, which mainly comes from the higher level of the case issuer, such as selecting relevant precedents from the United States Supreme Court and the European Court of Justice; The second is substantive authority, which stems from the influence of the case in similar cases, such as selecting important cases with precedent status in case law. Secondly, the classic nature of case selection. Classic cases mean they are often milestone cases in related fields, such as the Standard Oil (1911) case, which established the principle of reasonableness in US antitrust law, and the Leegin case, which involved restricting resale price behavior. Thirdly, the forefront of case selection. Frontiers refer to both the latest cases in terms of time and hot legal issues. Bilingual course teachers in the field of law should continuously track judicial or enforcement developments in relevant fields, select the latest judgments or enforcement decisions, such as the series of judgments made by the European Court of Justice in recent years on Google's self preferential treatment case and Google Android case, to ensure timely updates of teaching content. It should be noted that authority, classicism, and frontiers summarize the characteristics of a case from different perspectives, and the three are not completely distinct and may sometimes intersect with each other. In addition, the selection of cases may not always comply with the three principles. For example, some latest cases may be selected as teaching materials before the final trial, such as the release of the first instance judgment, in order to ensure timely updating of teaching content. At this time, their cutting-edge value can compensate for the lack of authority and classicism.

4.2. Organization of teaching process

After selecting appropriate teaching cases, how should they be applied specifically? This article believes that the implementation of the case study teaching method includes three stages: pre class preview, in class intensive lectures, and post class assignments. Firstly, preview before class. For undergraduate law students, learning the original texts of foreign case studies is quite challenging. Without preview, classroom teaching will be difficult to carry out. Therefore, teachers should publish the original text of the case they plan to learn at least one week in advance through smart teaching platforms, QQ groups, WeChat groups, etc. In addition, given the significant differences between legal English and public course English, as well as the difficulty of foreign legal knowledge, it is necessary to prepare a core professional vocabulary list and a Chinese introduction of case background information for students in advance, in order to facilitate their correct understanding of the original case text. Secondly, on the basis of sufficient preview, the teacher will give a detailed lecture on the cases in the classroom. When elaborating, the first step is to divide the knowledge points of the case into modules. For example, the knowledge points in US precedents can be divided into modules such as procedural law, substantive law, and common law rules for explanation. Secondly, during intensive teaching, teachers are the main body, students are the center, and preview feedback is the basis to avoid traditional cramming teaching. On the premise of ensuring that students have fully previewed, teachers can engage in more interaction with students during intensive lectures, including inviting students to read, translate, analyze, or engage in group discussions. Finally, due to limited class hours, in order to ensure teaching effectiveness, homework should be released on the learning platform after class. Small tests or discussions should be conducted around the English knowledge points and professional knowledge points involved in the case, and the learning effect should be strengthened through student student evaluation and teacher summary.

5. Conclusion

Scholars have correctly pointed out that although bilingual teaching is expensive, the social cost of not conducting bilingual teaching is even higher. Similarly, if bilingual classes have already

been conducted but cannot produce substantial results and only become a formal response, the cost will only be even greater. Therefore, how to better carry out bilingual teaching of law is of great significance in the context of the huge gap of foreign-related legal talents in China, and the growth rate of the number and quality of talents is far from meeting the requirements of Chinese path to modernization. Introducing the teaching method of case based original text may be beneficial in this regard. Of course, this method also has drawbacks such as high English proficiency of the teaching object, the need to screen courses based on adaptability, and the time-consuming and labor-intensive implementation. However, as long as case selection and pre class, in class, and post class teaching design are comprehensively considered and fully demonstrated, and strengths and weaknesses are maximized and avoided, the practical application of this method can help create an efficient bilingual legal classroom, and ultimately serve the strategic goal of cultivating foreign-related legal talents.

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