

Original Paper

Legal Clinic Education and Legal Consultation from the Perspective of Problem Awareness

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Abstract

“Adhering to problem oriented” is one of the “six commitments” mentioned in the report submitted to the 20th National Congress of the Chinese Communist Party. Problems are the starting point of discourse today, and proposing solutions remains the fundamental task of theoretical research. As legal workers dedicated to the people, we adhere to this in helping clients with their legal consultations. Legal consultation is the start of legal services. Legal consultation can be compared to a medical diagnosis—it involves “looking”, “listening”, “palpating”, “noting”, “selecting”, “answering”, much like a doctor checking a patient’s condition. And then it does an analysis of Legal clinics and Consulting according to President’s problem awareness.

Keywords

Legal consultation, Legal clinic, Problem awareness, Practice and knowledge

To the 20th CPC National Congress report pointed out that we should have a deep understanding and grapple with the essence and practical implications of problem oriented. We need to focus on resolving actual problems encountered during reform, opening-up and socialist modernization in this new era. After entering the socialist new era, public’s sense of law, the party’s governing legal philosophy as well as social system of laws have progressed considerably. Suing for legal help to solve problems doesn’t feel quite so rare like the “Qiu-ju Lawsuit” case back in the ‘90s anymore. But the increase of lawsuits does not merely need higher efficiency and quality from judges, prosecutors; what is more, it puts the same high demand on lawyers who offer consultation. Since the formation of a legal profession, many people have become lawyers. However, as the saying goes, “the hardest thing of all is to get started”. For a new lawyer or legal personnel with no stable clients or developing their own style seeking success in litigation needs some special skill. And I tried to address them by using some of

what was already out there and making it applicable. It's through the perspective of President problem oriented, which offers theoretical explanation on legal consultations workflow.

1. “Looking” -Using the Materialist Attitude of “Seeking Truth” as a Ruler to Explore Reality

1.1 The Material Nature of the World Makes Observation the First Link in Interaction

A first impression usually determines what comes after it. Value those first interactions when talking about specifics because it's now that you get a good look at the person. If handled well, it can also make you understand the other party's point of view, protect the other person's interests, and achieve good communication. And also how you behave affects if people think you are reliable and good enough to look after them.

1.2 Attempting to Explore the Profound Implications Underlying the Objective Reality

Lawyers need to observe patiently when the first meeting with the client has much information. As a first step, some basic observations on the clients gender, age, identity, occupation. Getting who that person plays on social media accurate will give us the whole picture for sure. In applying general role evaluation criteria, these things should be kept in mind.

During this period, besides making assessments and observations initially, there needs to be more communication and response. Overall impression is full of confidence, dependable, careful - done with 2 things, eye contact and body language. Limited verbal chances make body language a silent expression of yourself expressing your professional legal knowledge and presence. A typical gesture is to cross your hands and spread your fingers but not cross them; this shows composure and confidence. German chancellor Merkel was often in such a posture at meetings and for pictures. Don't forget, crossing your fingers will bring up the feeling of being hesitant and frustrated and humble. This small change in gesture shows how much body language changes meaning and what you think.

As for eye contact, which are windows to our soul they will reveal your character effortlessly. As a very important instrument of viewing and speaking, keeping mild but strong eye contact without fleeing and showing friendliness and inclusion forms different presence and disposition. It can make people drop their guard, letting them freely disclose all the details of what happened naturally instilling a feeling of being taken care off.

Considering that people have different levels of control and complexity in making facial expressions, eye contact and body language become the easiest part to learn about for communication. They show fast obtaining and hardly any mistakes, they become instantly influential. They are basic and necessary parts of interactions among people; even looking has its significance as an important part of eye contact.

2. “Listening”—Determining the Framework of Countermeasures Based on the Principle of Guiding Practice with Knowledge

2.1 Practice Is the Source and Foundation of Knowledge

“To explain social problem and prescribe the appropriate remedy for it we first have to know what is wrong with our society.” We must take a good pulse on the state of China’s economy, as well as the disease that we have (if any), and what kind of medicine is needed (Selected Works of Marx and Engels, 1995). It’s got to be very, very clear in mind. This step is obviously where the people who were in it tell what happened, so we need to make that complicated information simple and figure out what parts matter using our knowledge of laws. It can be said for sure is that when people recount everything, they all get angry and speak from their current position. For both of them I will not say yes or no, I won’t just follow them either, I’ll be indifferent to them. Well, then someone will surely ask why we say this?”

If we don’t know where the pulses and meridians are, which illness could be cured? Problem solving needs knowing how the condition looks and picking the right shape of medicine, dosage targeted approach to specific symptoms (Readings from a Series of Important Speeches by General Secretary, 2016). First off, being a lawyer, one has to keep an objective mindset, avoiding distortion due to emotions of the clients. Second, agreeing with the clients when they say something so important is very bad. This will not only risk clients becoming dissatisfied with unattainable expectations and harm your reputation, it will also disrupt the whole consultation process. This is an absolutely forbidden thing.

2.2 Practice Is the Driving Force for the Development and Deepening of Knowledge

Then it goes to actually doing the simplification process. This stage has two closely linked stages which are not separate, these are inquiry and active listening. Active Listening is foundational to getting the information we need—step one of making it simpler. Only after completely grasping all of the information can we start compressing it. And then the inquiries check certain specifics and see what’s currently needed, contentious. Although it might seem to be a rather simple thing, it’s actually very important as far as setting things up for writing legal docs like complaints and defenses when cases are being handled.

There are several practical steps available here. Firstly we identify what to analyze. The five parts I recommend are root cause, timeline, who is involved, event details, result, demand, contentious issue. Then carefully check every detail according to objective parameters. For example: In divorce cases, the child’s age, asset division, reason for divorce, time of divorce, who takes care of the children. Private Loan Disputes: Determine the date of loan issuance, channel of payment, presence of interest agreements, and start of debt recovery efforts.

It is a big thing affecting the defending argument and final decision. Parties’ statement about such issues will probably be distributed all through the conversation and seem like little ones. Your job is to arrange them logically as you listen, like collecting stamps, seemingly carelessly but actually very seriously.

3. “Palpating” -Applying the Theory of Contradiction to Comprehensively Analyze Basic Case Details with the Combination of Point and Face

3.1 *The Principle of the Particularity and Universality of Contradictions Requires “Adaptation to Local Conditions” and “Adaptation to the Times”*

Human thought starts from the problems caused by actual social procedures. When people find problems by taking action and get knowledge, their first ideas come from certain contradictions. Ancient doctors would press a piece of red thread against the skin on your wrist, watching as it moved along various points and reading off what disease that indicated. When helping out clients, we basically do “consultation”-listening to what they have been experiencing recently, then comparing against various laws & finding the “key disputes” and “solutions”. palpating doesn’t mean pulse here; it’s strategic questioning, finding the right door into discussion, getting good at the talking pace, so client and lawyer can both have things done more quickly than before without spending too much of either.

3.2 *Contradictions Are Pervasive and Interconnected*

In Marxism’s opinion, it’s like there is an everlasting developing process full of contradictions and change in this world. So problem-solving can’t be done by using the same methods and frameworks. And then have it included when we’re listening actively. When our clients start talking we naturally become the ones giving information and speaking, whereas they are the main source of speech and information. But only playing these roles doesn’t meet the standard of case preparation and can seem somewhat mechanical and cold. Therefore, if clients talk freely without any particular chronology or logic, we need to control their words through questions and regulate the speed of conversation. Moreover, offering assistance to customers experiencing greater agitation or lack of control is also a very good chance for us to show our expertise, understanding and humanity.

Therefore, how to guide this process when it really happens is a problem that must be solved. Take divorce lawsuits for instance. We’ll find some pattern and try to generalize it: Greet those being interviewed briefly then start to ask about the facts formally. At first it could have been many conflicts and grudges – like having trouble making ends meet with her family, raising kids, struggling to keep the house running but he has an affair and doesn’t help out at home, she feels unimportant and a sidekick. Now, the important thing is don’t be resentful about it. Calm your heart first. Otherwise, if important problems are left unaddressed and emotions break down early on, then things will become worse. Then it turned into fragmented talks on how did they meet, what time was their wedding and kids born, and how do family members see their marriage. After having the child, relationships go bad because the husband keeps claiming he’s going to social events, but actually stays out all night. Although many tries to look for him, still no decision is made. Then it is argued over and over again without regard for children or households. When they advance into divorce lawsuits, physical violence cannot be suppressed and it’s truly unbearable, like coming out of hell.

Even when the conversation is mixed with some useful info, there’s still something stopping people from being too sad and bringing them back. But sympathy is there as well:remember it’s DV and

infidelity that requires proof. The two things which are commonly neglected is what kinds of assets and where they came from? Custody of children, if any, and whether it's during a divorce right now, and how does the male partner feel? These questions were very important for keeping the pace. If we prevent the topic from being controlled by these two people then things will move on in counselling otherwise it's wasting 3 lives.

After going through the case details, what comes next is to understand the client's viewpoint. So we have one more key thing: prioritize what the client thinks. As I remember my teacher said in class, we lack life experience and it's hard for us to think like the client. Tend to make things better and have unachievable expectations. Think of this typical situation, a lady wants to divorce, and her learner does not agree with her on that, saying it's not good for the kids. First, whether it's the client who wants to get divorced. Emotions once hurt will never be mended, more so with piled up issues blocking forever. Second, being people responsible for others' affairs, we shouldn't step beyond what is allowed. We are there to serve clients in our own best interest, not force our judgement. Lastly, I also think being raised by parents who have separated doesn't necessarily mean it would harm your child's development. If you must encounter these conditions, accept your fate and achieve internal peace. People are stronger than you think. Don't ever judge customers from up on high.

4. "Noting"—The Derivation of Truth Cannot Be Separated from the Combination of Knowledge and Practice

4.1 Knowledge Guides Practice while Also Being Updated and Evolved through Practice

We should research on what things really are and how they come about based on the real life realities that are full of vitality. Based on reality and experience, we need to take a scientific attitude that values seeking the truth. But at the same time, let us not forget the ways and rules as per Marxism's development theory. This link should be a result of the prior links and form one unbreakable chain. The important thing here is documentation. As the saying goes, "A poor pen beats an excellent memory," if we do not take notes, it is easy to forget important points and assignments in busy workplaces. Hence documentation is essential, be it for legal advice or any other profession. Here are some important things that need to be recorded systematically.

The documentation starts off by listing the clients general info especially their age and social status. In the consultation matters part, it involves lots of things. There's information about how and why these problems happened, some parts need extra looking into. And lastly is the clients own request which includes urgent requests or questions. Recording is based on the principle of legal reasoning combined with facts such as reason, occurrence time, result, place, person. In the presence of some problems, it is more effective.

5. “Selecting” — The emergence of truth requires the fulfillment of specific conditions

5.1 *The Difference between Truth and Falsehood Lies in Whether the Conditions Are Met*

Problem Awareness plays an important guiding role, it can light up people’s strong wish to know and reasonable expectation of the goal, and promote active questioning (President, 2017). So it makes sure any investigation begins and ends with questions. A question’s answer will be universal if it is true under exactly the same circumstances. As lawyers, we have to see that evidence is king in court. Put simply, reasoning, presenting evidence and drawing conclusions are all about what takes place at court. Thus, the evaluation of evidence becomes another central part (after facts are applied to legal analysis and issues in documents) of applying law.

Before going after them legally, you have to know who’s responsible for proving what. If acting on behalf of the plaintiff then one must provide legal evidence for all claims, facts and causality. This follows the principle that “he who asserts must prove”. But if it’s a defendant at hand then the issue of “reversed burden of proof” needs addressing as to ascertain what types of evidence are necessary during the course of litigation.

Hereafter, the evidence items will be explained with plaintiff (claimant), which is assumed to be a traffic accident case. The first piece of evidence that must be the traffic accident liability determination issued by the public security traffic police department, because it is the direct responsibility for solving problems and comes from a responsible authority with absolute legal force. The second one is compensation. It’s necessary to know what kinds of compensation were being sought and who would have had to pay it, because this information proves very helpful both when I’m writing the claims portion of the complaint and in figuring out which judge will enforce it.

5.2 *The Conditionality of Truth Determines its Limitations*

In President’s thinking on the new era, problem solving should steer clear of any fixed mindset such as seeking a sword by marking the boat or working alone; nor should it indulge in daydreams untethered to reality. We must uphold the principle of seeking truth from facts and take objective reality as our starting point. Concerning compensation classifications, China has created certain laws specifying the standard of road traffic accident. Compensation items stipulated by law are: medical costs, lost wages, hospital meals subsidy, nursing fees, disability living allowance, assistive device cost, funeral expenses, death compensation, dependent support, travel expense, lodging fee, indirect property loss. It has categories each come with evidences need and calculation rules. Like medical expense which is composed of medicine, treatment cost and hospital charge. Primary evidence of medicine is outpatient record, hospital admission file, payment receipt, bill list and official diagnosis certificate.

The other type is the loss of salary compensation, that is the income decrease caused by people for medical treatment, physical disability evaluation or traffic accident disposal. The key evidence needed to prove lost wages is: discharge notice; hospital sick leave certificate; forensic medical certificate; employer’s work absence certificate issued by the employer, salary statement of three previous months. When an individual’s income is above the country’s tax limit, they need to hand over certificate of

taxes due from tax office. And if any hospitals mentioned it or there were forensic references to recovery times being noted that the pre - disability rating period is lost wages.

For those having fixed incomes, they have to prove that the employers' incomes reduced because of traffic accident leading to suspension in work. Eligible income is salary, bonus and state subsidy and allowance. The bonuses will be calculated according to the last year's per capita bonus that the employer had got at the time of his/her accident. If it is over the bonus tax limit, we will do it for the minimal taxed amount. For agricultural workers with fixed income for farming, forestry, animal husbandry, fishery, etc., it is based on the per capita annual net income of the local area's labor force where the accident occurred. For people with no stable income, like some who were doing work before the accident such as urban and rural self-employed workers, domestic labor services etc., proof should be provided by the sub-district offices, townships. To summarize, the amounts and items of compensation should be decided according to laws and supporting papers.

As for compensation liability, China stipulates that the insurance company of the defendant's compulsory traffic and the defendant will be liable for compensation(full liability). Other cases are based on equal distribution to compensate. Now we notify both sides: bring your own insurance policy, car registration and driver's license; go to the car; drive to the car owner's unit (insurance company); go to the claims department in the insurance company for "vehicle accident report form"; After the above steps are completed, you will receive two Vehicle Accident Report Form copies and an Accident Notice. One copy of the Vehicle Accident Report Form should be handed over to the insurance company's claims adjuster, and the other is filled in with the accident notice and used for claiming money. The "Accident Notice" is then sent back together with all the other documents to your insurance company.

6. "Answering"-The Thinking Mode of Starting with Questions and Ending with Questions Conforms to the Basic Requirements of Legal People in the New Era

Problem awareness greatly widens the methodology, giving us more practical approaches, ways and means on how to make strategic decisions (Zuo & Lan, 2005). As consulting services ultimately aim for some sort of actionable response (like doctors concluding a diagnosis, prescribing medication, giving medication instructions), we should stick to 3 rules: too much is bad, too little is not good enough, too strong is harmful. Although these concepts are somewhat vague, we can still distill some main points regarding direct response for newbies to use as reference templates.

6.1 The Principal Aspect of the Principal Contradiction Determines the Fundamental Nature of Things

First if it could even be filed. This question decides if the deal will happen or not, so it is both an answer to those people and a big question for you. Usually related to the case filing criteria like the amount of private lending, also your opinion about evidence and fact like if it is legal and relevant for a tort liability compensation claim.

Second core is the size of risk and place. First, let the people know the good and bad sides of it. While knowing what they want, we should also tell them some general results about it and be cautious when having high expectations.

Next one is gathering evidence. It takes place right after the first meeting. Usually, the main things after the first meeting are solving those problems and making the power of attorney contract. It is a crucial, necessary step; it is the essential foundation for gaining legal standing to bring suit. Also defines who can do what, and gives some ways to protect us if disciplinary committee deal with wrongs.

Lastly, don't ever do anything that is absolutely verboten. (1) Don't do a recording just in case: (2) Do not make big promises. Overpromising backfires too - if expectations from your promise are high enough, people will think you are lying about wasting their money, and that's something you don't want.

6.2 Secondary Contradictions Cannot be Entirely Ignored

Complaining: when writing it out, there are 5 things to bear in mind. A number of them are related to whether the lawsuit is admissible and where it should be brought. First of all, Make sure the info of plaintiff and defendant is correct and standard, without typos or redundancies. Secondly, summarize the case facts from my investigative process, which is more like summarizing what we have already recorded. Third, give legal opinions with what we will say the attorney's opinion is. Four: Decide on jurisdiction by submitting your complaint to the proper court. Fifth, watch the statute of limitations. Regarding private loan dispute cases, it is the time when the party became aware or should have been aware of their debt repayment responsibility. In order to make it possible for this case to become litigious, audio proof that proves the original collection of debt is needed. Also, there are rules about when the statute of limitation is tolled and re-started.

Problem awareness, A problem is tantamount to a topic in fact; it decides the direction, task and goal for the subject. Hence, it is synonymous to Task oriented as well as Goal oriented. As for legal consulting, diverging questioning and trying to find causality between things is also the same idea (Chen, 2021). The problems are where creation starts, and they are what drive it forward. Theoretical innovation has to start from problems. As for President Thought on socialism with Chinese characteristics for a new era, it insists on the problem oriented, unifies Marxist views on contradiction, development and practice, endows Marxist world view and methodology with new contemporary connotation and regards the resolution of contradictions and overcoming difficulties as breakthroughs to break through old patterns. Identify problems; analyze problems; solve them, and then we understand history, find out development rules, achieve theoretical innovation. So that I can connect with the process and connection of Legal consultation, it is these thoughts, which maybe not yet full-grown, but serves as my record of thought.

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