Experience and Lessons of MPA Administrative Law Education in the United States to China

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Abstract: In the United States, Administrative Law, as one of the core curricula of the MPA, has in the past encountered some problems in the teaching process. Particularly with respect to educational goals, textbook compilations and teaching methods, it has experienced a process for perfectibility step after step, which serves as a good reference for China to inaugurate MPA teaching at the initial stage. It would be important to draw ideas from experience and lessons in the U.S. when carrying out administrative law education in China.

In October 2001, with the inauguration of enrollment of MPA students in twenty-four domestic universities, including Renmin University of China, through national united examination, the MPA, a new academic degree, emerged in China. After one year's practice and operation, particularly in teaching□teachers of MPA courses are more or less accustomed to the features of the MPA, but they have also encountered a range of problems. As one of these teachers, I will try to discuss some problems arising from China's MPA administrative law teaching by combining my own teaching practice, survey study results, and information from American colleagues.

I. Problems generated from MPA administrative law teaching in the U.S.

In the U.S., administrative law as a new subject enjoyed a fast development, especially after World War II. However, in the public administration sector, scholars did not recognize the significance of administrative law until recently. Now they are fully aware that administrative law is of pivotal importance to public administration organizations. For this reason, administrative law has already become one of the hottest subjects in the U.S. and has split into the discipline and rules generally followed in the specialized fields of public administration (Neustadt, 1990). As a consequence, specialized fields of public administration all have set up courses of administrative law in the U.S. Generally speaking, MPA administrative law education in the U.S. has several problems that are elaborated as follows:

1. Problems with regard to educational goals

What is the objective of administrative law education for MPA students? In other words, what can students learn from this course? In the academic field of public administration in the U.S., there were different opinions regarding this. Focal points of the controversy include: Is the mission different from that of the namesake in the School of Law? If yes, what is the major difference? And how are we able to distinguish them□

After a great deal of teaching practice and scholastic debate, some common understanding was achieved. In the first place, scholars generally agree that legalists and public administration academicians approach administrative law from different perspectives. According to Professor Peter Woll, what a legalist shall vindicate is the right and interests of his clients. Law school is to train legalists who are competent vindicators of individual rights, but not vindicators of the public interest. However, administrative law education in public administration aims at providing formal training to students on how to guard against willful governmental infringement of individual rights and how to effectively work out managerial decisions for the public interest (Woll, 1987).

Second, on the basis of some consensus already reached, scholars have explored the goal of administrative law education. Professor Kenneth F. Warren (1996) argued that there are at least two educational goals□one is to make students of public administration comprehend and master the elementary knowledge of administrative law, and associate problems of administrative law with relevant public policies. In addition, some other professors examine the educational goal as setting up administrative law in the MPA by means of comparison. According to them, traditional social scientists are not concerned with legal issues related to public administration. Since law school focuses only on legal principles, law school graduates know little about the relationship between legal principles and operational demands of democratic government and democratic social practice (Pierce, 1991; Shapiro, 1991). Consequently, it is clear that the most elementary purpose in setting up the course of administrative law is to cultivate a legal sense and legal

quality of students of the MPA discipline, and to train them to observe indispensable legal procedures and master the norm of administrative law when they are involved in public policy formation and implementation. Particularly in the U.S. that boasts of a high level of democracy, it seems more important for public administration personnel to grasp the knowledge of administrative law. Obviously, this educational goal is different from that of law school, which is the "fruit" achieved by American scholars of administrative law through incessant debate and through practical trial and error.

2. Problems with regard to schoolbooks compilation

The U.S. is one of the pioneer countries in teaching and research of public administration. However, in compiling the textbooks for administrative law courses for the MPA program, it has gone through a gradually adaptive process. The first problem encountered is: can MPA students who have little legal background knowledge use the same administrative law textbooks as law school students? In the U.S., textbooks on administrative law were compiled primarily for law school students before 1982. All of these textbooks are full of legal terminologies. Moreover, the fundamental purpose of these early textbooks is not to inspire readers to actively think over some significant public policies and public administration issues in American society, but to teach students how to win administrative lawsuits. For instance, why do so many inclined debates fail in terms of traditional legal judicial precedent languages such as "what judgment" or "what decision" (Schwartz, 1990)? Students of the MPA or the public administration discipline, show more interest in debates as to "try what," and they pay more attention to the administrative law problems related to significant public policy and public administration. For example, what kinds of statutory procedures should the Nuclear Energy Regulatory Commission (NRC), the Federal Aviation Agency (FAA) and National Aeronautics and Space Administration (NASA) comply with when making rules and holding hearings of witnesses, and how do these statutory procedures affect the capability of each agency to put forth precautionary functions, including preventing another Three Mile Island Event, another airplane collision and another distressful traffic tragedy? (Warren, 1996).

Obviously, it is impossible to "mechanically" use administrative law textbooks of law departments without taking into account the factors concerned as mentioned above. (Barry and Whitcomb, 1987; Carter, 1983; Cooper, 1988; Heffron and McFeeley, 1983). In the 1990s, Professor Kenneth F Warren of the Political Science Department at St. Louis University began to compile administrative law textbooks for students of non-law majors. His *Administrative Law in the Political System* has been very popular among scholars and students. Its third edition is an attempt by social scientists to satisfy the demands of the public administration sector for popular administrative law teaching materials. This book aims at introducing students to the status administrative law enjoys in the American political system, especially the influence, instruction and restrictive effects that administrative law may have when administrative organization stipulates procedural rules by operation of law. With regard to traditional administrative regulation subjects (such as enacting of law, release of order, judicial review of administrative behavior), this textbook is the only one that uses non-professional language, and takes into account the requirement of social science students.

Professor Kenneth F .Warren summarized some features of MPA administrative law textbook compilation as follows: (1) The textbooks shall be composed by social scientists particularly for students of social science; (2) The textbooks are not introductory books of legal background knowledge; (3) Combining law and social science helps people understand the essence of administrative law; (4) The case analysis method usually used in the textbooks for law school is adopted, which makes the elusive administrative law topics easier to understand; (5) The textbooks adopt analytical methods familiar to social sciences students so that they can approach administrative law from the perspective of the American political system; (6) The administrative law topics (such as drafting, completion and supervision of police policy) that are closely related to social science are presented; (7) Viewpoints prevalent in the 1990s are utilized in examining the development of administrative law (Warren, 1996).

3. Problems with regard to the way of thinking of teaching or teaching methods

The teaching methods for MPA administrative law courses have also experienced a gradual transformation. At the very beginning, the teaching was completely in accordance to that of law school, namely the teaching method led by case analysis. In consequence, students were dissatisfied and teachers were at a loss.

For this reason, scholars started to adopt the teaching method and way of thinking about non-legal cases to adapt to the teaching of administrative law for MPA students. They gradually discovered that the core problem in administrative law study is how to connect administrative law with real public policy; therefore it requires a research method and way of thinking which is different from that of law school which merely underlines specific administrative cases. For example□in the book *Focal Points of Administrative Law*, which is about broadcasting control, Krasnow et al. point out that a strict and systematic method is needed to conduct research on control behavior. They comment: "It is evident that with only a little effort people can fully comprehend the system of broadcasting management, such as management of some influential broadcasting. This does not mean that people are unwilling to comprehend the management problem of

broadcasting, but they hate to use language of analytical procedure to interpret it." (Krasnow et al., 1982)

Likewise, Warren put forward a similar teaching method, that is, a systematic and theoretic analytical method. With this method, reasonable assumptions are made of various independent and interdependent factors in the model. For instance, the influence from both interest groups and administrative agencies should be considered when forming statutes and regulations. Since its debut, this systematic method has been widely applied with success. Systematic theory has offered a very clear analytical framework or model for beginners to understand how political participants (usually called political actors) associate with other institutions. For the benefit of research and description, investigators and compilers further define the connotation of "system," namely, a concept that may have macroscopic and microscopic tiers: it can be applied to the study of a small town's major policies or to the study of a certain state in an international context.

As summarized by Warren (1991): for our purposes we can take this system frame as an analytical tool and put the administration system into this structure for inspection. Moreover, we can also verify the complicated roles that administrative organizations are playing in the American political system.

4. Problems with regard to MBA and MPA courses

Both the MBA and MPA represent high-level professional education. American scholars, considering the difference between business and public sector careers, have worked toward different course settings for the two programs. However, along with the continual outspread of executive authority and continual innovation of administrative systems in the U.S., and particularly in company with the continual innovation of management theory scholars discovered that there were more and more similarities shared by both MBA and MPA courses. Although there exist great differences with regard to the objects and goals of the two sectors, administrators of the public sector and the private sector share many more similarities in respect to work responsibility than might be expected. In some circumstances, their undergraduate programs are the same, but they differ in specialized fields. Master of Business Administration (MBA) and Master of Public Administration (MPA) programs have become more and more popular of late. Although the MBA pays more attention to management of the private sector, we cannot deny the fact that the MBA and MPA courses are very similar. Because of the high correlation between the two programs, there even emerged joint-degree programs for the MBA-MPA, where students of either concentration are to complete the same core curricula (such as organization theory and conduct, microeconomics and macroeconomics). MBA and MPA students will be the future leaders in the private and public sectors, and they must be trained in fields like public finance, accounting, administrative law, human resource management and management information systems.

Apparently, administrative law has already become a practice-oriented course in the U.S. On one hand, future business managers should not only be familiar with the internal managerial skills, but also have expertise as to private and public relationships; on the other hand, research on administrative law is primarily conducted on the basis of relations deriving from executive authority. As government control and management in the U.S. is now very complicated and sophisticated, study on the relation between government and the governed has been an intriguing topic. In recent years, many Americans have even begun to challenge the validity of administration's position (Spicer and Terry, 1993). Therefore, American students regard administrative law as an important course that they have to study (Pierce, 1991; Warren, 1996).

II Lessons

The problems that MPA programs have encountered in setting up administrative law courses in the U.S. provide us with a good chance to reflect upon our own difficulties. Especially in present day, when we are focusing managing state affairs by the rule of law, education in administrative law is of great significance. And this is the very reason why I want to borrow ideas from the experience and lessons of the U.S. and present my own opinions about MPA administrative law teaching in China.

1. Educational goal should be different from those of the law department

The educational goal of Chinese MPA administrative law teaching is to cultivate the legal sense of MPA students and train them to adopt an analytical mode of administrative law and think about problems related to public policy and public administration, as well as administrative enactment of law. In fact, our MPA education is to improve public administration staff's comprehensive quality, and the capability to administer according to law is an important indicator. It is the requirement for following up and implementing cardinal policies and strategies of "managing state affairs by operation of law" and propelling standardization and legislation of governmental works, and the challenge of WTO accession in terms of enhancement of governmental capability to accommodate to international rules. Public servants need to take on a relatively strong legal sense, consciousness of regulation and a concept of democracy. In their work, they must strictly comply with work rules and perform duties and execute public affairs in accordance with stipulated responsibility purview and procedures. They shall carry out law sternly, justly and civilized, and create an open, just, uncorrupted and high-effective administration environment for the public. They shall firmly resist ugly phenomena such as not complying with the law, not severely executing the law, not investigating violation of

laws; they must avoid breaking the law while carrying out the law, substituting law with authority, and so on.

It is obvious that such a teaching goal is totally different from that of law school. So we should develop a new teaching method, way of thinking and curricula suitable for MPA students.

2. Issues with regard to textbook compilation

Nowadays, almost all of the pilot MPA programs are occupied with compiling or translating their own textbooks. Some people think this is just a waste of resources to some extent, while others believe that at the initial stage of MPA education this waste is inevitable. In my opinion, at present textbooks are principally compiled by publishing houses in China, the market has its own rules, and the operation of publishing houses can be assessed by the market. Yet scholars and teachers should be ethically responsible. They should fully consider the practical situation of MPA students, adequately draw experience and lessons from American practice and work out really applicable textbooks.

Most of the current MPA administrative law textbooks are compiled according to the structure of administrative law textbooks used by law schools, and the contents are almost the same. Of course, the compilers of MPA administrative law textbooks are those who used to compile administrative law textbooks for law schools. I understand that it is extremely demanding to design new courses, but I personally believe that compilers should try to visualize the characteristics of public administrations.

These characteristics include: cases and theories in the field of public administration, and public administration terminologies; more materials about administrative execution of law and public policy processes, as well as the rights, obligations and duties of public institutions and public servants; and an institutional approach. It is admirable that there are already some pioneers in this respect.

3. A combined method

Our traditional "spoon-feed" teaching method is definitely inappropriate to MPA students who already have work experience; therefore, we need a more flexible and diversified teaching method. It is also evident that pure case teaching is not easy for the students who are not well-trained in law and thus lack relevant legal background knowledge. Many professors who come back from abroad prefer a Western-style teaching method, namely, to assign students substantive Chinese and English materials, then students present their opinions and teachers make comments. This method is also not very beneficial. I believe that in the teaching process teachers must take full consideration of the working environment of these students, and they must draw on the thinking pattern of systematic theory in exposition of contents. That is to say, the teaching should start from the systems familiar to the students, and then carry out analyses on the surrounding environment based upon this system, and gradually introduce theory and cases of administrative law, instead of the usual order of concept, characteristics, principles, types and cases. The relationship of cases to theory is also not advisable, because MPA students are more familiar with the specific system, despite the fact that some systems are displayed in the form of cases themselves. In the meantime, teachers should encourage group discussion, and conduct legal analyses on this problem in order to make theoretical conclusions.

I have tested different teaching methods and discovered that the results yielded are noticeably different. In my surveys, particularly in the discussion with MPA students about teaching methods, I found that students mostly prefer the teaching pattern which starts with system, then leads in concept and principle to discussion of problems from the point of view of law, and then back to theoretical analysis of specific systems. One of the advantages for Chinese administrative law teaching is that there are a great number of court cases in China. However, unlike the law department, we cannot place stress on the detailed analysis of a case itself and find out the probability of victory or defeat for both litigants. What we should do is to analyze the problems existing in public policy and administrative execution of law through cases.

4. Issues with regard to setting up administrative law courses for MBA and MPA Programs

As noted earlier, public administration and business administration programs in the U.S. share more and more features. As is now well-known, public administration and business administration in the U.S. have been borrowing managerial experiences and methods from each other. In China, such an interaction between the two fields is unprecedented right now. Although it is difficult to say whether such a phenomenon will expand to other countries and regions, assuredly the cross reference of management methods in the public domain and private sectors has more advantages than disadvantages.

What we can learn from this is that both MPA and MBA students should pay attention to administrative problems such as government's administration according to law, public policy establishment and implementation, providing subsidies for administrative conducts, and so on. It is because of this that public-private relations is a essential topic in our society.

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