

Training Lawyers Practicing Skills for the United States Students - An Experience for Training Legal Workforce in Vietnam

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Abstract: In the context of international integration and the requirements of the 4.0 industrial revolution, the legal teaching process needs to equip learners with the most necessary skills in the practice process. However, the training of skills in law schools is still spread out, there is no agreement with the profession being trained. From there, the article will introduce the experience of skills training in general and skills for law students in particular in the US, the article points out the advanced points in determining the key skills, as well as the form and method of evaluating these skills. From there, it will be a lesson learned in implementing skills training courses at law schools in Vietnam.

Keywords: Skills, legal profession, training experience, law students

1. Introduction

The results of implementing the Resolution of the 12th Party Congress indicated that "education and training, science, and technology have not become the driving force to propel socio-economic development." Consequently, from 2021 to 2023, one of the key developmental directions, according to the Resolution of the 13th Party Congress, is to "make breakthroughs in fundamental and comprehensive innovation in education and training." To enhance the development of education, and improve the quality of legal training, the "Project on Solutions to Control and Improve the Quality of Legal Bachelor Training until 2030" is constructed with the aim to control the quality of legal workforce training at universities to meet the requirements of socio-economic development and establish the rule of law state in the context of international integration.

Because the law bachelor's program in both Vietnam and worldwide, aims to provide human resources for the legal profession, the training programs must always concentrate on training the learners with a "ready-to-practice" mindset (whether the profession requires profound legal knowledge or practical skills). According to Black-Branch (2016), these training programs should provide learners with appropriate knowledge and skills while instilling the necessary attitudes and professional qualities required in the law profession.

As a result, law students in different countries have been required to equip with essential skills for their future careers. For instance, according to Hien & Thang (2023), the Council of Heads of Law Schools in Australia emphasized that law students have to develop statutory interpretation skills to flexibly apply the law in various interpretive contexts. Similarly, Cassidy (2012) mentioned that Boston University in the United States has designed a course titled "Advising the Business Planner," where business management students collaborate with law students to provide legal advice for a hypothetical business project.

However, in Vietnam, the specific skills that law students need and the methods to implement these skills have not been clearly defined. There is also a lack of clarity on how to incorporate these skills into the curriculum to prepare students for their future careers. Therefore, this article aims to analyze and clarify the skills required for law students and the methods to implement these skills, drawing insights from the U.S. experience. The results of this current study would be considered valuable references for legal education in Viet Nam in the future.

2. Definitions of “skills”

There are various concepts regarding skills. According to the Concise Oxford Dictionary (1976), skills are considered expertise, practical ability, the ability to perform an action or to use it in carrying out a task. Based on different dictionaries and definitions, the concept of "skills" is highly flexible, as the term can be narrowed down or expanded to encompass almost any type of knowledge. The meaning of "skills" can also vary based on the increasing levels of proficiency from beginners to experts.

To perfect skills, three factors must be addressed including, action, practice, and proficiency levels. Therefore, skill training for university students is often closely tied to post-graduation employment, requiring repetitive practice until the learner achieves a required level of proficiency. The phrase "skilled" such as skilled negotiator, skilled contract drafter, or skilled lawyer is used to describe an action that has been practiced and achieved high effectiveness. Although there is no universally agreed-upon definition of the concept of skills among widely accepted educational psychologists, Mackie (1989) emphasized that students with professional skills will exhibit different characteristics such as:

- (i) Skill training is initially planned with a focus on career goals.
- (ii) Skills are gradually formed through practical training, not developed reflexively or instinctively.
- (iii) Skills must be linked to reality, with the trainee recognizing that skills are associated with practical situations.
- (iv) Associated with micro-level skills, the effectiveness of this skill training can be evaluated through various factors or habits.
- (v) The transition from learning to perfecting skills requires educational institutions to guide students in acquiring specific skills necessary for the profession, even if they may have equipped themselves with skills inappropriately for the professional context in the past. Educational institutions need to specify each skill that students need to acquire.

3. Lawyer practicing skills at law training institutions in the United States

Skills constitute one of the essential requirements for law schools, legal faculty, law firms, and legal educators to guide and selectively design training programs. Most skills are valuable; however, Zanans & Rosenblum (1993) discussed that the methodology for skill training needs to be tailored to the learners. In the United States, particularly within the lawyer profession, the training of practical skills aligns with the curriculum, and universities consistently conduct real-world surveys related to the industry. In this regard, Mudd and La Trielle conducted a survey of all lawyers in Montana, presenting 149 competencies categorized into four general types - knowledge of legal content and procedures, technical skills, and personal attributes (Mudd &

Trielle,1988). Based on the survey, they selected 14 skills deemed essential for this career, which law schools should consider incorporating into their programs.

- Grasping specific rules and policies.
- Ability to apply rules and policies through verbal and written communication.
- Organizational and critical thinking skills, based on logical reasoning, linguistics, philosophical approaches, sociology, ethics, and various economic theories.
- Developing extensive research skills in legal documents; exploring other skills such as clear writing, precise drafting, public speaking, argumentation, communication, interviewing, and advisory skills (Binder et al., 1991). Organizing allegations and evidence; negotiating; mediating; identifying issues/problem-solving; time management; self-awareness and evaluation.
- Understanding and critiquing various legal philosophies.
- Studying legal sociology.
- Researching the psychology of lawyers and conflict psychology.
- Investigating the history of legal formation and legal systems.
- Identifying ethical dilemmas and feasible solutions for these situations (Gordon, 1988, p. 141).
- Researching different models of cultural behavior - individual, collective, and legal.
- Learning theories and methods of managing and planning societal changes ("macro problem-solving").
- Applying skills and general knowledge to specific transactions. These transactions include writing pleadings, drafting cooperation agreements, buying and selling real estate, and notarizing wills.
- Eliciting emotions and inspiring a professional spirit with certain values and ideals, for example: adherence to proper procedures; resilience in the face of opposition, cultivating perseverance and patience; empathy for those oppressed in society (such as the poor, racially discriminated individuals, children, women, physically and mentally disabled individuals, the elderly, unborn children, those not attending school, and those violated).
- Developing character and habits towards certain values and principles, as outlined in the passage, a lecture by the author (Graycar & Morgan, 1990, p.11).

The list of 14 objectives for legal education for lawyers can be expanded or systematized into classifying principles (Bloom et al., 1970, p.34). Typically, skills training at law schools in the United States identifies specific skills required for each profession and the general skills that all legal professions must possess. According to Stevens Law School (1990), the initial stages, when determining the common skills that law schools need to equip students with, encompasses writing skills, interviewing, communication, advocacy, identifying ethical issues, and technical transactional skills.

Before debates on which skills to train effectively, a wave of educational innovation occurred in 1970, incorporating skill development objectives into the training curriculum. Notably, Boyer & Cramton (1975) stated that attention was given to document and people management skills, interviewing, negotiation, drafting, advocacy, identifying ethical issues, and providing appropriate responses. Furthermore, the innovation of skills courses not only took place in the United States but also other countries such as Canada, Australia, the UK, and New Zealand, especially in postgraduate courses organized by Continuing Legal Education (CLE), which identified specific skills that law schools should focus on, including interviewing, negotiation, document management, advocacy, basic letter writing and document drafting skills, issue identification, and ethical decision-making.

In the 1990s, law schools increasingly emphasized skills training in the context of economic integration. Postgraduate professional legal training courses, publicly funded, found a place in the skills training education system for participants. The rationale for this was that law schools recognized the existence of a 'gap' in skills training, as many smaller law firms were no longer able to allocate time and resources to train new employees, leading to an inability to compete effectively in the market.

In summary, throughout the process of educational reform in the United States from 1970 to the present, there have been numerous changes in the perception of training skills. Despite variations in methods and specific skill sets, the overarching theme is that the U.S. continues to emphasize core skills such as interviewing, listening, questioning, negotiating, human management, document management, technological proficiency, stress management, and addressing ethical issues.

4. Forms and methods of implementing a training course on legal practice skills for law students

In the United States, skills training for students can be integrated into the academic curriculum or conducted through short-term skill courses. One valuable experience in organizing such short-term skill courses at Phoenix School of Law, related to the legal profession, could serve as a lesson for legal education institutions in Vietnam. Accordingly, Phoenix School of Law will organize General Practice Skills (GPS) courses for law students. The abbreviation of the course name (GPS) is intended to signify that this course helps learners navigate globally, assisting them in finding their path in the world. The practical skills course aims to guide students toward the profession they may engage in the future.

The course is designed for a single semester, comprising six credits dedicated to all third-year law students. Consisting of seven modules, the course encompasses valuable skills essential for the legal profession to be practiced and experienced. Classes are conducted twice a week, each session lasting three hours. As a result, the course outcomes serve as the basis for graduation evaluation for students. It is taught by practicing lawyers, judges, and members of the State Bar of Arizona. Skills are instructed in groups under the supervision of the Director of the General Practice Skills Program, who is an official member of the Phoenix School of Law faculty.

The primary objectives of the course are as follows: (1) to practice various skills that students will frequently use in the legal profession; (2) to experience the methods lawyers employ

in addressing legal issues, engaging in legal exchanges, and advising clients, including fact investigation, negotiation settlement, pre-trial issue handling, legal document drafting, case file preparation for dispute resolution, and client representation; (3) to become familiar with professional values recognized as crucial in the legal field; (4) to demonstrate a high commitment to ethical standards and professionalism in client interactions; (5) to acquire practical foundations for decision-making in various legal areas as a profession (University of Wisconsin Law School Course Objectives, 2008).

To achieve these objectives, the course is organized into seven modules: (1) Law Office Organization and Management; (2) Family Law; (3) Small Business Law; (4) Debtor/Creditor Law; (5) Wills and Estates Law; (6) Criminal Law; (7) Personal Injury Law. The selection of skills to be equipped for students is determined by committees, which have identified thirteen specialized skills that the course will focus on: written communication, legal drafting, active listening, verbal communication, collaborative teamwork, factual investigation, interviewing, identifying and resolving ethical dilemmas, issue spotting, advocacy, counseling, negotiation, and mediation (Stephen Gerst and Gerald Hess 2009, p. 520-521).

The Director of the General Practice Skills Program - a faculty member at Phoenix School of Law, is responsible for (1) recruiting training personnel; (2) developing the teaching program and selecting teaching materials; (3) guiding and training; (4) ensuring the compilation of syllabi aligned with the curriculum; (5) ensuring course materials are useful, scholarly, and accurate; (6) evaluating instructors guiding the skills courses; (7) addressing student-related issues related to the program; (8) promoting public relations and community engagement. Additionally, the Director of the General Practice Skills Program will be responsible for introducing instructors for this course.

4.1 Implementing the practical class through establishing a law firm

Before the first class session, students independently establish law firms with four or five members each. These law firms are maintained throughout the course and serve as models for small group collaborative exercises, simulating real-world problem-solving and client representation. This allows students to engage in small group discussions, plan, share ideas, and allocate tasks. Moreover, students will experience a realistic simulation of law firm dynamics, despite being a simulated scenario. One of the invaluable lessons imparted to students is that their personal reputation may be influenced by the law firm's operations. In terms of implementation, each module begins with an introduction by the instructor, followed by hands-on instruction in professional skills, practical exercises, and the academic outcomes of each section summarized below.

Organizing and managing the Law Office

Students formulate a business plan for their law firm, encompassing decisions related to the practice area, location, office equipment needs, marketing, insurance, staffing, conflict check systems, management of conflicts of interest, billing and income allocation, and expenditures. The firms will draft necessary documents for attorney-client interactions, including engagement letters, fee agreements, client intake forms, conflict check procedures, rejection letters, letter handling procedures, and closing letters (for completed agreements with clients). They will also review tripartite trust account reconciliation, payment ledgers, and timesheets. Additionally, students

engage in discussions about case file retention, withdrawing from client representation, or exploring stringent rules governing handling client funds and trust accounts.

Family law practice

Students conduct interviews with clients who want to divorce before the court resolution takes place. Based on the gathered information, students will draft and file a divorce petition on behalf of the two parties (in the skills training model, it will be submitted to the department). In this model, students are required to equip themselves with necessary documents related to marital settlement. During the divorce resolution hearing, students may request emergency/temporary measures if they observe signs of asset dissipation by the other party. Before the court hearing, law students will play the role of representatives for the firms representing their clients in a court-ordered mediation on unresolved issues. At the end of the course, students prepare documents requesting asset division, child custody plans, and calculating child support.

Practicing with small-scale enterprises

In this field of law, students commence by interviewing a client with a small-scale enterprise establishment need. Each law firm requires students to form an LLC for the client, necessitating them to prepare articles of organization and operating agreements, submit the documentation to the firm for potential commissions, and obtain a tax identification number for the newly established company. In the second week of the module, students take on the role of businesses formed by three of the law firms interested in acquiring assets from other law firms. The law firms engage in negotiations, representing their clients to address issues related to competition terms, compensation, and safeguards in asset acquisition transactions. After the negotiations, students prepare an asset purchase agreement for assessment by instructors and industry experts.

Practicing in wills and estates

In this module, students learn and discuss fundamental knowledge about drafting wills and the role of attorneys in estate planning. Accordingly, each student is required to draft two wills—one based on a scenario provided in the pre-supplied materials and the other designed based on a hypothetical situation proposed by the student. Within this context, students are tasked with conducting an interview with a client who needs to create a will related to real estate and services. As part of the will drafting assignment, the client permits the student to draft the will in the event of their passing. Subsequently, students retain a copy on behalf of the client and proceed with the procedures related to authenticating the will. This entails each student completing the appropriate authentication of the pre-existing documents.

Debtors/creditors regulations

In the first week, students focus on debtor remedies, and in the second week, they engage in bankruptcy practice. The requirements of this module include observing a simulated client interview on an issue related to debt recovery, learning how to conduct a compliance call for debt recovery under the Fair Debt Collection Practices Act (FDCPA), drafting a letter for FDCPA-compliant debt recovery, preparing typical debt collection pleadings, examining judgment debtors. In the second week of the module, students conduct an interview with a client seeking debt relief, schedule a client for Chapter 7 bankruptcy proceedings using the provided materials, prepare a proposal for settling debts for a business if needed and willing to stay in the market, draft a proposal

for situations where a debt is found to be unpayable and participate in a hearing to argue related debt matters.

Practicing criminal law

Students are provided with a criminal case file related to their clients and prepare legal grounds for the arrest of their clients. Students at defense firms have to research and draft a motion to suppress evidence, a motion to limit the use of prior convictions, and a motion to determine voluntariness in their client's statements. Prosecution firms submit responsive motions and memoranda detailing each step in the process of arresting their clients for statements. A trial is conducted to argue and rule on the case. Students then engage in negotiations to reach an agreement on statements for a legal defense. After modifying defense procedures, students advocate for their clients at the sentencing hearing.

4.2. The skills acquired through law firm practice classes

Every General Practice Skills module incorporates ethical problem-solving skills, which include two or more professional values chosen by the faculty for each course. Throughout each module, faculty teams present challenging ethical situations commonly encountered in the instructed practice setting. Professionalism, along with ethical issues, is also emphasized in every module. The faculty team selects methods to highlight values and professionalism for the module. Sometimes, they are integrated into examples and situations used in the module. At other times, faculty teams design scenarios as discussion topics for the class. Examples of both professional and ethical issues addressed include the following content. Consequently, these courses have equipped students with essential skills such as:

In the Office Management and Administration module, students face issues related to ethical law office management, conflict checks, scheduling, communication/security, competency, and fees. Practical exercises emphasize avoiding conflicts of interest, updating information for clients, handling funds, and training appropriate employee behavior.

In the Family Law module, professionalism is emphasized in dealing with client expectations in a case that needs resolution, as well as in client meetings, exchanges, and issue resolution between parties. Students will have to confront issues related to advising clients in property settlements, child custody, and other family relationships.

In the Small Business Organization module, students confront the issue of "Who are you representing?" The tensions, pressures, and professional responsibilities of a lawyer representing clients in buying or selling a business are highlighted. With the Estate Planning and Probate Skills module, students must face challenging issues of professionalism in dealing with clients who have experienced the loss of a loved one and must rely on their attorneys for guidance and advice. Students encounter situations where the elderly clients may be vulnerable and potentially exploited by their families or others.

In the Creditor/Debtor module, students practice procedures as required by the Fair Debt Collection Practices Act and other professional requirements in dealing with debtors. The bankruptcy portion of the module emphasizes honest dealings with the court in property and transfer issues. Lastly, in the Criminal Law module, the duties of an officer of the court sometimes conflict with tasks related to securing communication with a client. Students are placed in a

situation where these issues arise before a judicial officer and learn how to resolve them professionally and ethically.

The last session of each module is devoted to an open-ended question period. Each law firm will have students prepare three or four questions they want to ask the general practice skills faculty team. The questions may relate to the practice areas of the module or be about the faculty as individuals, soliciting questions that pique the class's interest. The questions provide an opportunity for students to inquire about issues such as professional job satisfaction, billable hours, fee structures, law firm expectations, issues that tend to cause high stress levels for attorneys in the practice area, client development, establishing partner relationships, career opportunities, finding resources, and balancing the practice of law with other areas of life. One of the benefits of the course design is that, by the end of each module, students and the law firm have established a relationship likely to continue in the future.

4.3. Course evaluation methods

The General Practice Skills Course is assessed by both instructors and students. These evaluations are shared with the overall practical skills program, the Program Advisory Board, and the Department Head. The Program Director observes classes across the module. Additionally, the advisory committee reviews plans and teaching materials for each course component. Students also have the opportunity to evaluate each module separately.

At the end of each module, students receive an email with a link to an evaluation survey, which is completed anonymously. The evaluation tool uses a scale from 1-5. The email asks students to rate and provide comments on each instructor who taught the module, the provided materials, and whether the module met its objective in integrating skills and values allocated for the module. Students are also asked to comment on how they believe the module has prepared them for practice, list three aspects they liked most about the module, and suggest ways the module could be improved.

At the end of the entire course, students are surveyed again and asked to assess how well the entire course achieved its goal of teaching the skills and values used by lawyers in various practice areas. This final survey also requires students to comment on the benefits they gained from the course, identify aspects that do not need changes, and suggest improvements for the course. Student evaluations of the General Practice Skills Course are highly positive (Gerst & Hess 2009, p.580-588).

5. Experience in organizing professional skills training for law students in the United States and lessons for Vietnam

The General Practical Skills course was developed to fulfill the mission of the Phoenix Law School and meet the educational needs of students. The experience of the Phoenix Law School in designing and delivering general practical skills courses contains valuable lessons for other law schools attempting to change their training methods and make them more professional, becoming an integral part of legal education. The key experiences include:

Mission Alignment: The course program is designed in alignment with the school's mission, defining the functions that the school intends to serve and the overall objectives. The program includes educational outcome goals describing the knowledge, skills, and values that graduating students should achieve in law school. This is an experience that law schools in

Vietnam should consider when designing teaching programs to guide students in mastering the necessary skills.

Task-Oriented Development: The development of the General Practical Skills course reflects the tasks of each agency and sector in training law students. The Phoenix Law School is committed to preparing students for legal practice, closely aligning skills with each profession's requirements. Vietnamese law schools should conduct surveys of employer needs, as Phoenix Law School did, to ensure that their practical skills courses are closely aligned with the reality of legal practice.

Consistency in Skills Training: To ensure consistency in skills training at U.S. law schools, the Curriculum Design Committee for skills and practice courses sought input from subject-matter experts. Similarly, students were surveyed for feedback on the skills they acquired, teaching methods, and suggestions for improvement. This consistency is not always present in Vietnam, where skills courses are often a small part of the curriculum and lack focus.

Professional Development for Instructors: In the U.S., practicing lawyers invited to teach skills must undergo training in teaching methods. Schools identify specific tasks for skills training, including providing necessary materials, giving students time to practice skills and professional values, and providing constructive feedback. In Vietnam, due to differing university mechanisms, many law schools may not have the capacity to invite experts to teach skills courses, as the remuneration may not be commensurate.

Identification of Essential Skills: U.S. law schools have identified specific common skills needed by all graduates, as well as skills specific to different professions. This clarity is currently lacking in Vietnam, where professions have not fully determined all the necessary skills for students, and extracurricular skills courses are insufficient.

In conclusion, the experiences in designing and implementing the General Practical Skills course at the Phoenix Law School offer valuable lessons for law schools in Vietnam. By aligning with the school's mission, identifying specific tasks for skills training, ensuring consistency, providing professional development for instructors, and clearly identifying essential skills, law schools in Vietnam can enhance their training programs to better prepare students for legal practice.

Conclusion

In the history of higher education and the scientific and technological advancements, law schools should decide on appropriate changes to meet the future demands of legal workforce training. Therefore, to contribute to enhancing the quality of legal undergraduate education in our country, it is essential to equip students with the necessary skills tailored to each profession. However, in current law schools, students are not provided with specific professional skills for a particular occupation but rather general skills applicable across various professions. Hence, with the establishment of a network of law training institutions in Vietnam, there is a demand for these institutions to harmonize the skills provided to students, as well as the methods of organizing classes, and the implementation of training programs to be in line with the current societal context.

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