

# The Same Model, Different Approaches: A Comparative Study on Legal Education Reforms in East Asia

Xiangshun Ding<sup>1)</sup>

There are several common features of legal culture, legal profession, and legal education in East Asia, especially among China, Japan and South Korea. All three countries had been affected by traditional Chinese Confucius legal culture before the western powers invaded into East Asia in the mid-19 century. There were no formal legal education systems and no legal profession in the ancient period in those countries. Administrative officials who were selected by civil service examination filled the roles of judges and prosecutors, and no formal legal service industry existed. With the invasion of western forces in order to withdraw adjudication privileges for foreign citizens from those western countries, the governments of countries like China and Japan had to initiate legal reforms to meet the requirements demanded by the invading western countries. In the process of legal reforms since the 1860s, continental law, rather than common law, impacted the formation of modern Japanese law, Chinese law, and Korean Law.

With the adoption of a new legal system, the institutional legal profession also emerged in the end of 19th century and the beginning of the 20<sup>th</sup>. In order

---

1) Professor of Law and Director for Comparative Law Program at Renmin University of China Law School. Many thanks to Professor Lloyd T. Wilson, Director of the Joint Center for Asian Law Studies at Indiana University Robert H. McKinney School of Law who provided valuable advice to improve the quality of this paper.

to educate new legal professionals, the governments of China and Japan also dispatched law students to study overseas, especially in America, the United Kingdom, Germany, and France, and a new and high level of legal education, including law institutes, also established gradually in these Eastern Asian Countries. Thus the characteristic of new legal education is that it is framed by continental legal tradition and is provided at an undergraduate level. As a result, legal education in China, Japan, and South Korea has not been considered to be professional legal education. Instead, the goal has been to convey legal knowledge to undergraduate and graduate students rather than to provide professional skills education. In short, there is no institutional connection between legal education and the legal profession.<sup>2)</sup>

However, since the end of the 20th century, influenced by the American professional education model, legal education in the three countries started to fundamentally change both institutionally and pedagogically. The demand for high level legal talents in the development of global market economy became the motivation and inspiration for reforms to the bar examination and legal profession in these three countries. 1995, China adopted some elements from American professional legal education and set up a new Juris Master program at the graduate level. Japan also established a new professional legal education system in 2004, Houkadaigakuin, modeled after the American law school system, and the implementation of the new bar examination system soon followed. In March 2009, South Korea implemented a legal education and bar system similar to Japan.<sup>3)</sup>

The emerging professional legal education in East Asian Countries is both dramatic and significant because the legal education institutes started to be involved in the process of educating legal professionals. In addition, the way of

---

2) Setsuo Miyazawa, Kay-Wah Chan, and Ilhyung Lee, *The Reform of Legal education in East Asia*, page 333. Annual Review of Law and Social Science, 2008.4.

3) See *Raising the Bar: the Emerging Legal Profession in East Asia*, Edited by Professor William Alford, Harvard, East Asian Legal Studies, 2007

selecting junior legal professionals and the structure of bar have been reformed gradually. During the transition from a legal knowledge-oriented to a professional skills-oriented model, many elements of American professional legal education have been introduced institutionally and pedagogically.<sup>4)</sup> After briefly highlighting the common features of legal education before the recent reforms, this paper will explore the backgrounds, incentives, and processes of the legal education in China, Japan, and South Korea, respectively. Based on the introduction of the legal education reforms in those countries, the paper will focus on comparative studies among those three countries and with the American model from an institutional aspect and will analyze the impact in each country with the introduction of different institutional elements from American style. The conclusion draws some theoretical implications from similarities and differences among the three countries, particularly in terms of the role of the top elite law schools as agents of reform and in terms of the constraints imposed by different local conditions. Following the institutional comparison, the paper will shift to the pedagogical reforms in East Asia through empirical studies on the introduction of legal clinical education. This paper concludes that the institutional and pedagogical analysis of legal education in East Asia will lead to the further development of legal profession and to the primacy of the rule of law. This paper will conclude with an analysis of the impact of the on-going legal education reforms on the emerging legal profession.

## I. The common features of legal education in China, Japan, and South Korea.

Traditionally these countries, as well as other countries in East Asia, trace their legal systems to the influence of western continental legal systems, especially Germany and France. In the perspective of legal education, these countries share the feature that legal education has been provided at an

---

4) See Xiangshun Ding, *the Reforms of Legal Education in China and Japan: Shifting from the Continental to the American Model*, Vol.3, Civil Law Studies, 2010.

undergraduate level and has not been considered as professional legal education.<sup>5)</sup>

## A. China

With the end of the Cultural Revolution in 1976, China began to reconstruct her legal system, and the expansion of legal education has been rapid and dramatic. There were only two functioning law institutions at the end of the Cultural Revolution in 1977. There are over 620 today, and there has been a corresponding rapid increase in the number of law students in the past 30 years. By the end of 2007, there were 290,000 full-time undergraduate students, 44,000 full-time and part-time master's level postgraduate students, and 7,000 full-time and part-time doctoral students registered at Chinese institutions. Although coexisting with diploma programs, correspondence courses, television education programs, and similar providers, the mainstream in China's legal education system is the four-year undergraduate program (LL.B.) offered by law institutions that are affiliated with public universities and that admit high school graduates through a National Admission Test. At the postgraduate level, there are LL.M. and doctorate programs, which are academically oriented and mainly aimed at nurturing future scholars. In 1996, an additional postgraduate was created: the Juris Master (J.M.), which was originally modeled on the American J.D. program.

The target of legal education in the four-year undergraduate program is to teach legal knowledge and provide a general education for students rather than train future lawyers. It is a general arts education program and in principle a theoretical study of the law, lacking practical training. Law students are required to fulfill at least 16 core legal courses and non-law courses such as foreign languages, physical education, even political theories like Marxism and Deng Xiaoping theories. Most graduates serve as public employees, business

---

5) See Setsuo Miyazawa, et al., supra note 2.

leaders or fill other roles that may or may not relate directly to the practice of law. LL.M. and doctoral programs are originally academic-oriented programs and are divided into separate sub-disciplines (majors) such as jurisprudence, legal history, civil law, criminal law, procedure law, business law, international law, military law, and environmental and natural resources protection law; however, most graduates have non-academic careers.<sup>6)</sup>

There is no institutional connection between formal legal education and the pathway to taking the bar examination. Historically, there have been few professional requirements for Chinese judges, prosecutors, and lawyers. It was not until 1986 that the national lawyer's professional qualification examination was implemented. Even for judges and prosecutors between the years 1986 and 1995, there were still no qualifying exams. In 1995, the Judges Law and Procurators Law were changed to require the internal staff of the courts and prosecutors' offices to take national qualifying examinations. In 2001, the Judges Law, Procurators Law and Lawyers Law were amended to add the provision that judges and prosecutors also needed to take a unified qualification examination. The unified national judicial examination has been administered annually since 2002. The only educational requirements to qualify to sit for the unified national judicial examination is that one holds an undergraduate degree or, in some economically deprived regions, completes a shorter, three-year college education. There are no legal educational requirements, so about one half of those who have passed the examination do not have any formal legal education.

## B. Japan

In Japan, modern legal education was established during the 1870s in the

---

6) see Zeng Xianyi and Zhang Wenxian, *zhong guo fa xue zhuan ye jiao yu jiao xue gai ge yu fa zhan zhan lue yan jiu* [Research on China's Legal Education Reform and Strategic Development in the 21<sup>st</sup> Century], Page 65, the High Education Press, September 2002.

period of Meiji and reformed after World War II. There are nearly 100 undergraduate law faculties, with approximately 200,000 students. Since their introduction in the late nineteenth century, though, these undergraduate law faculties have never been considered as part of the educational process for future lawyers. Law faculties have functioned as general education programs to produce a workforce for business, government, and other walks of life. An undergraduate law degree (LL.B.) is not required as a qualification for the national bar examination, which was established in 1948. As in China, undergraduate legal education in Japan is a general arts education, and therefore, social science courses are mandatory. Compared to China, however, postgraduate legal education is less representative of East Asian tradition as it focuses on nurturing scholars for law faculties.

To become a judge, public prosecutor, or practicing attorney in Japan, one must usually pass the bar examination and complete one and one-half years' training (two years for those who entered the Institute prior to 1998) at the Legal Training and Research Institute, which is affiliated with the Japanese Supreme Court. Before 2006, the old system of legal education and training of lawyers in Japan consisted only of taking the national bar exam and participating in an apprenticeship administered by the Supreme Court. Under this system of selection of lawyers, anyone is qualified to sit for the examination, but those who have completed the study of liberal arts required for obtaining the bachelor's degree are exempt from the first phase of the examination, which is regarded as a qualification test. Because completion of formal legal education is not a requirement, a large number of people take the national bar examination and most of them also attend crammer schools where they concentrate on exam-taking skills. Therefore, although most of those who pass the bar examination are actually graduates of undergraduate (or postgraduate) law faculties, their legal education is provided to a significant degree by crammer schools. This has led to the double schools phenomenon (a trend of going to two schools, the university and the preparatory school), which has been criticized as a waste of educational resources and as merely acquiring

the techniques needed for passing the examination rather than a sound education by legal educators in Japan.<sup>7)</sup>

### 3. South Korea

The legal system and legal education in South Korea reflect Japanese influence, which is a result of the colonial occupation in the first half of the twentieth century. Under the current traditional Korean system, South Korea shares with Japan many similarities in terms of legal system, the structure of legal profession, and the system of legal education. The main body of legal education is based at the undergraduate level and admission to bar is similar to Japan before the introduction of American style law school in 2009.

As in Japan, the legal profession in South Korea enjoys extremely high social reputation and income as an elite class. The number of legal professionals is limited strictly through the national unified examination. As recently as 1980, South Korea had fewer than 3,000 legal professionals and was limiting new entrants to 100 people per annum.

There is no institutional connection between the bar examination and legal education. The first step to becoming a lawyer in South Korea is the national judicial service examination, which is administered in three sequential parts. Only those applicants who are successful in the first part may advance to the next. The passage rate is controlled by the government, which results in a very low number of successful test takers. Those who succeed in the bar examination are required to attend a two-year program at the Judicial Research and Training Institute (JRTI), under the supervision and authority of the Korean Supreme Court. Traditionally, the top graduates of the JRTI have become career judges

---

7) See Xiangshun Ding, the Comparative Studies on the Legal Profession and Judicial Examination in Japan(RiBen Sifa Kaoshi Yu Falv Zhiye Zhidu Bijiao Yanjiu) in Chinese version,Fangzheng Press(Beijing),2003.

and prosecutors, with the rest going into private practice.<sup>8)</sup>

## II. The process of legal education reforms in China, Japan and South Korea since 1990s.

Since the 1990s, the development of rule of law in these three countries, the growth of their economies, and the liberation of legal service market, which created a demand for new legal talent, have combined to motivate a new trend of reforms in legal education. Legal education in East Asia, particularly in mainland China, Japan, and South Korea is undergoing fundamental changes in terms of institution and pedagogy. A common feature of those changes was the introduction of American style postgraduate professional law schools at existing undergraduate legal education or replacing undergraduate legal education with postgraduate professional law schools.<sup>9)</sup>

### A. China

In China, legal educational reform started from the middle of the 1990s, when the educational authority initiated the J.M., which is modeled after the J.D. program in American law schools. This program is offered to students without requiring them to major in law during their undergraduate studies. From 1996 to 2009, the number of law schools approved to hold a J.M. program increased from eight to 115, and the number of enrolled students increased from 425 to 40,000. Since its introduction, a total of 50,000 students have received their J.M. degrees. The J.M. program adopted a critical element in U.S. law schools, such like that legal education is provided at the post-graduate level. As a result, diverse students with different backgrounds gained opportunities to pursue legal education.

---

8) See Dai-kwon Choi, A Legal Profession in Transformation: The Korean Experience, in REORGANISATION AND RESISTANCE: LEGAL PROFESSIONS CONFRONT A CHANGING WORLD 171, 174 (William LF Felstiner ed., 2005).

9) See Setsuo Miyazawa, et al., supra note 2.



## B. Japan

In Japan, the Justice System Reform Council (JSRC), a body created by the government under the cabinet from July, 1999 to June, 2001 to discuss and clarify the issues and direction of the judicial reform. The JSRC called for a complete overhaul of legal education in Japan and for the creation of new professional law schools that would bridge theoretical education and practical education; and provide students with the opportunity to acquire the specialized legal knowledge, lawyer skills, and professional values necessary for solving actual legal problems. The JSRC defined law schools as professional schools providing education especially for the training for the legal profession.

As part of the reforms in Japan, 68 new Japanese professional law schools (*Houka Daigakuin*) opened their doors in April 2004, and there were 74 law schools totally by April 2008. The annual enrollment of students is over 6000.

With the establishment of new law schools, a new national bar examination (which is open only to graduates of the new Japanese law schools) was established in 2006. The current national bar examination and the new Japanese law examination coexisted during the period 2006 to 2011. In 2011, the new national bar examination completely replaced the old bar examination, which means only graduates from Japanese law schools will be qualified to sit for the bar examination and to practice law in Japan.

## C. South Korea

South Korea followed the lead of Japan and learned lessons from the operation of Japanese law schools. In 2007, Korea's National Assembly enacted legislation, the Act on the Establishment and Management of the Law School, which paved the way to the new U.S.-style professional law school beginning in 2009. Under the new legal education system, 25 universities were authorized to establish new professional law schools around the country. Followed with the

opening of new law schools in 2009, a new bar examination was created in 2011 for graduates from the new law schools. Unlike Japan, South Korea limits the number of new law schools to 25 nationally and has determined that undergraduate legal education will not be allowed to exist in the universities that are approved for the establishment of new law school.<sup>10)</sup>

### III. Some comparisons from the aspects of background and incentives among the three countries

I take the view of the reforms in the three countries as the introduction of elements of the American system of legal education. American-style professional education has had an impact on the reforms of legal education in these three countries; therefore, it is appropriate to analyze why they introduced American legal education elements as the direction of the reforms and how American professional legal education systems affected the new systems in China, Japan and South Korea.

The motivations and inspirations for initiating the reforms of legal education in the three countries are different. Nevertheless, since the late 1990s, both China, Japan and South Korea experienced demands for numerous legal skills conducted with high quality. The knowledge-oriented legal education could not meet the demand for nurturing competitive legal skills in the newly complicated legal services environment.

In China, the authority described the motivations of establishing the J.M. degree in the official approving document, and stated:

With the development of the socialist market economy and the deepening of reform and opening to the outside world, the legal matters relating to all kinds of economic activities and social development and social stability is

---

10) Yooncheol Choi, Hanguo de Faxue Jiaoyu ji Lvshi zige Kaoshi Gaoige, (The reform of Legal Education and Bar Examination in South Korea), Page 38-42, Vol 6, Jusrist Review (edited and published by Renmin University School of Law), 2009.

getting complicated, specialized and international in terms of scale and level, thus a large number of high quality professionals and managements talents, especially a number of high level legal practical and managerial legal talents who may meet the need of market economy and legal construction, are required in the legislature, judiciary, prosecution and legal service. But the current legal graduate education and the situation of the legal profession cannot meet such need as following: first, generally the graduate education is still academic-oriented and far away from the practical requirement; second, the scale of graduate education cannot meet the increasing demand in terms of quality and quantity from practical circles.<sup>11)</sup>

Since the late 1970s, China has carried out the policy of reform and opening-up by reconstructing its legal system. In the past 30 years, there has been rapid and continuous economic growth in China. Meanwhile, legal matters have become increasingly complicated leading to a rapid and substantial increase in legal needs and a demand for high-level legal talent. Thus, the need arose for a legal education program at a postgraduate level that could produce a large number of highly skilled attorneys to work in practice. Because traditional lecture-oriented courses could not meet the demand, some officials in the Ministry of Justice joined with scholars to submit a report in 1994 proposing to introduce an American-style legal education. A joint committee, consisting of representatives of the Ministry of Justice and the Ministry of Education along with some prominent scholars, was thereafter established for the preparation of a new program. Although this new program is modeled on the American J.D. program, it was named Jurist Master because it is equivalent to a master's degree in the Chinese degree system.

Whereas in China reformation originated with the government, in Japan the pressure came from the business community, especially from Kendanren

---

11) Document on the establishment of Juris Master Degree issued by the Commission of Degree under the State Council. May 12, 1994.

(Federation of Economic Organizations), which has been the most powerful interest group in postwar Japan. In May 1998, Kendanren proposed the establishment of postgraduate professional law schools as a way to increase the number of highly educated lawyers with a broader background. That proposal was adopted by the then-governing Liberal Democracy Party (LDP). LDP's proposed report for comprehensive reform, issued in June 1998, led to the establishment on July 27, 1999 of the Justice System Reform Council (JSRC), under the cabinet.

The composition of JSRC indicated the impact and concern from society: Seven of the 13 members of JSRC were appointed from outside legal circles. In the recommendation submitted by JSRC on June 12, 1999, JSRC called for a comprehensive reform to meet the demand for access to justice by Japanese citizens. To make such access justice possible, a greater number of practicing lawyers was required, more than Japan had to offer at the time. Hence, JSRC prioritized an increase in the number of lawyers, setting the goal of tripling the number of new lawyers by 2010 and recommending as a centerpiece of the new system, the establishment of law schools at a postgraduate level by 2004. In the JSRC recommendation, the system of selection of lawyers was criticized because lawyers (including judges and prosecutors) were selected by a single method—the national bar examination administered by the Ministry of Justice. The disconnection between bar examination and legal education in universities implied a waste of social resources, which in turn led to a lower quality of future lawyers.

For all countries in East Asia, increasing the number of high quality lawyers became the motivation and goal behind creating new law schools, which also contributed to the introduction of an American influenced legal education.<sup>12)</sup>

---

12) For example, the Recommendations of the Justice System Reform Council, issued by The Justice System Reform Council in June 12, 2001 highlights its goal as “Moreover, to coordinate the human base to support the justice system of the 21st century, in which legal demands are anticipated to become further diversified and to become more

However, the discussion in China relating to increasing the number of high quality legal professionals was different from the demand of increasing the number of lawyers (addressed by the Economic Organization) in Japan. The discussion in China remained within the legal circles of the country and the introduction of a new legal education system was conducted by the internal documents issued by the Chinese Ministries of Justice and of Education.<sup>13)</sup> It is obvious that the reform of legal education and the establishment of Japanese law schools emerged within the context of comprehensive reform initiated by the cabinet and stipulated by laws passed by the legislature. The reaction to the demands for creating a new legal education system and the approaches that introduced an American type legal education determined partly the content and characteristics of the new legal education systems in the three countries.

#### IV. The extent of similarities and differences between the American Law Schools and the new professional legal education systems in East Asia.

Although the designers of the new legal education systems claimed they modeled or took as reference the American-style legal education, the characteristics actually implemented are quite different from American law

---

complicated in various aspects of life, it is essential to substantially raise both the quality and quantity of the legal profession (judges, prosecutors and lawyers). First, with regard to the qualitative aspect, the legal profession bearing the justice system of the 21st century will be required to be equipped with such basics as rich humanity and sensitivity, broad education and expertise, flexible mentality, and abilities in persuasion and negotiation. It will also need insight into society and human relationships, a sense of human rights, knowledge of up-to-date legal fields and foreign law, an international vision and a firm grasp of language. On the other hand, with respect to the quantitative aspect, compared with other developed countries, the population of Japanese legal professions is extremely small, both in total number and in the number of new entrants through the national bar examination and the apprenticeship training system; and the legal profession truly cannot respond adequately to the legal demands of our society. When one also thinks of the increases in legal demands in the future, it is clear that substantially increasing the size of the legal profession is an urgent task.

13) See Zeng Xianyi, *Zhong Guo Fa Lv Shuo Shi Zhuan Ye Xue Wei Jiao Yu de Chuang Ban Yu Fa Zhan*(the establishment of Chinese Jurist Master Program and its development ),Page 112,*Jurist Review*(edited and published by Renmin University School of Law),2007,3.

schools. Therefore, a comparison with American law schools becomes crucial for observing the new legal education systems in the three countries.

The J.M. program in China allows students from diverse backgrounds at the undergraduate level to study law in their postgraduate law schools, which is quite similar to the American system. However, different from the LSAT in the United States, the scope of subjects for the admission test includes law subjects such as Chinese legal history, constitutional law, civil law, criminal law, etc. The diversification of law students in Japan is implemented by admitting students who major in non-law degrees in undergraduate studies. But quite different from China, and similar to the United States, Japan's Ministry of Education authorized two organizations to administer aptitude tests for law school applicants. These tests exclude the subjects of law, and law schools are allowed to choose either of them as the standard for admission. Students who achieve a good score on either or both of these tests and obtain a good GPA in their undergraduate studies are admitted to Japanese law schools. In China, many scholars criticized the current system, arguing that it does not make sense to test the legal knowledge of those who have not yet studied law. However, there are no signs of change to the current way of testing and offering admission.

Unlike U.S. law schools, the new J.M. program (or new law school system) is based on the old undergraduate-oriented legal education systems in China and Japan. Therefore, the new programs have to deal with the graduates who have already obtained the LL.B. degree. In China, J.M. programs recruit two types of students: full-time students and, from 1995 to 2009, part-time students. Only those students who were non-law majors are qualified to apply as full-time students and sit for the admission examination. But for those who have working experiences and apply for the part-time program, even law major undergraduates, are eligible.

Nevertheless, since 2009, the Education Administration in China decided to

extend the scale of J.M. programs and even those who major in law as undergraduates are permitted to apply for full-time J.M. programs. This raised a new problem of how to teach students who have different backgrounds and various levels of legal knowledge. In Japan, the length of study differs based on the backgrounds of students: two-year programs for law major students and three-year programs for non-law major students as undergraduates. But even graduates from law schools are required to pass a legal ability examination, which determines whether the examinee is eligible for the two-year program. Students who fail the exam must attend the three-year program in law school although they may have completed their undergraduate legal education.

To reach the goal of producing highly qualified lawyers or legal talents, the new J.M. program or new law schools must find qualified faculty with real world experience at practicing law. But different from American law faculty with practical experiences, professors in China, Japan, and South Korea rarely have practical experience outside the classroom. To resolve such a problem, the Japanese and Korean legislatures passed laws in which judges and prosecutors are dispatched to teach at professional law schools for some time while their positions are suspended. However, there are no complete changes in the teaching faculties in Chinese J.M. programs and the old academic-oriented faculty members are still the main teaching body in J.M. programs. Therefore, although some changes in pedagogies have emerged, the new J.M. program is not distinguishable from the old legal education system in China. However, in Japan and South Korea, which are committed to practical legal education, the governments have set up many guidelines regulating new law schools. These guidelines include: limitations on class size and the initiation of new practical curriculum. These regulations have made the new professional law schools in those countries more independent.

Since 2006, and as part of a systemic comprehensive reform in Japan, the new bar examination—to which only graduates from Japanese law school are allowed to sit—coexists with the old bar examination system. Once the old

examination that everyone can sit is cancelled in 2011, those applicants who have never graduated from a Japanese law school will have to take a special examination in order to obtain qualification to sit at the new (predictably limited) bar examination. In South Korea, from 2012, upon graduation from new law schools, students will be permitted exclusively to take the New Bar Examination. In China the creation of the J.M. program has produced no changes connected with the qualification for the bar examination.. The system for obtaining legal professional qualification is still separated from legal education. There are no limitations for applicants who want to sit for the unified professional examination on whether they have finished formal legal education. There are no institutional connections between legal education (even in the J.M. program) and bar examination in China, a situation very different from the new Japanese and Korean law schools as well as American law schools.

From the comparison of institutional changes between Japanese and South Korean law schools, and Chinese J.M. program, we may conclude that the system of Japanese and Korean law schools is much closer to the American legal education than the Chinese J.M. program. Except with regard to the diversity of backgrounds for J.M. students, the J.M. program does not bring new institutional elements into the Chinese legal education system.<sup>14)</sup>

## V. The pedagogical changes following the reforms of legal education in three countries.

China, Japan and South Korea share many similarities in legal education. Traditionally, the goal of legal education was not to nurture legal professionals. Most applicants who successfully pass the bar examination are law graduates and the demands from legal circles also require law institutes to conduct skill

---

14) Xiangshun Ding, *Bijiaofa Shiya xia de Dongya Falv Rencai Yangcheng Zhidu Gaige* (The Studies on the Reforms of Legal Education in East Asia from the Comparative perspective), page 14-16, Vol 6, *Jusrist Review* (edited and published by Renmin University School of Law), 2009.



education, combining theory and practice.

Although the approaches to the legal education reforms in China, Japan and South Korea are different, the goals for the new programs are similar. Both seek to foster highly specialized professionals with social responsibility. These goals require building new teaching methodologies. Since the beginning of the twenty-first century, Japan and South Korea took measures to teach law students legal skills rather than doctrinal education. The main methodologies of teaching lawyering skills in East Asia are emerging in J.M. programs and Japanese and South Korean law schools. The following will discuss the impact on legal education of applying new experiential pedagogies in East Asia countries.

### A. Simulation and Moot Court Programs

In all three countries, the simulation teaching method is used widely in lecture and seminar classes. To encourage students to master lawyering skills, law schools in China usually provide context to simulate real cases and use a moot courtroom for simulation training. Some law schools organize moot court competitions as a student activity rather than a for-credit course. Supported by grants, some top law schools have even organized national moot court competitions, such as the Jessup International Law Moot Court Competition organized by Renmin University School of Law.

In Japan and South Korea, simulation combined with case method and seminars has been gradually adopted in the traditional law faculties. Since 2004, they are widely used in the new Japanese and South Korean law schools.

### B. Internship and Externship

Externships are required in China for law students with a high GPA. Students are typically assigned to observe legal practices at law enforcement institutions, at judicial organs, such as courts, at offices of prosecutors at all levels, at law firms, and at governmental agencies.

However, because of the rapid increase in the number of law schools, some schools cannot provide opportunities and platforms for externships for all law students. Furthermore, due to the lack of supervision by experienced faculty members or lawyers, the effect of an externship depends on law schools and the supervisors, and hence, does not play an important role in legal education.

### C. Clinical Legal Education

Clinical legal education was introduced into East Asian Countries in the beginning of the twenty-first century. Educators in the three countries are beginning to realize that clinical legal education can help train law students with the lawyering skills and values necessary for the delivery of high-quality legal services into the new century.

In September 2000, with the support from the Ford Foundation, clinical legal education programs based on the American model were offered by seven top law schools in China. In addition, as of January of 2009, 87 law schools in China opened clinical legal education courses as selective two or three-credit courses.

In Japan, with the establishment of the new J.D. program, clinical legal education has been transplanted into the new legal education system as an important approach to help Japan transform its legal profession. According to a 2006 study, as many as 52 of the 74 new Japanese law schools claim to offer clinic courses. Though some of these law schools have only externship programs, a majority of the law schools offering clinical courses have adopted a combination of legal clinics, simulation courses, and externships. Among these, there are ten law schools that are known to have established in-house law offices on campus.<sup>15)</sup>

---

15) Shigeo Miyagawa, Developments and Challenges of Clinical Legal Education in Japan, *Inha Law Review*, Vol15, March 2012

## VI. The impact of the different approaches of legal education reform among three Countries on the legal profession in each.

How to train law students to master lawyering skills and enable law students with practical abilities enter into the legal community is becoming critical to complete these goals. For this reason, the J.M. program in the Chinese, Japanese, and Korean law schools was introduced as one important step in nurturing better trained lawyers.

Nevertheless, in China, neither the J.M. program nor other programs such as undergraduate law programs and LL.M. programs are designed to achieve legal professional qualification, either for the purposes of taking the bar exam or for demonstrating that the student acquired lawyering skills. If students intend to take the bar examination, they focus heavily on the doctrinal courses. Therefore, even if law schools provide some lawyering skills education for students, these kinds of courses are not considered as important as basic courses like civil law, procedure laws, etc. which are tested on the national bar examination. In China, there are no mandatory courses of lawyering skills in the curriculum of law schools.

In Japan, due to the great number of approved new law schools and the low pass rate of the national bar examination, students at law schools have to struggle with the examination after graduation as the first step to become a lawyer. It is not surprising that students also focus on all examination skills or knowledge that help them pass the national bar examination.

The critical element of expanding lawyering skills is to convince students that, not just the bar examination, but also skills training is important for becoming a lawyer. Better training will help in their future performance. In my view, the development of lawyering skill education in China, Japan and South Korea must come from those who design the bar examination and from the

legal educators. For China, legal educators have to redesign the goal of legal education to give greater importance to training lawyers and should include required courses in practical skills along with those providing doctrinal legal knowledge. The bar examination process must consider whether to grant law graduates only the privileges to sit for the examination. The bar examiners should also consider whether there are ways to evaluate skills as well as knowledge. Japan similarly has to face adjustments in its bar examination, especially if the bar passage rate does not improve.

We can expect resistance because of the concern that law schools will become university-based versions of crammer schools, geared only towards passing the national bar examination. Law schools also are facing some difficulties from inside and outside in providing an education on lawyering skills. Unlike in the United States and many other countries, in East Asian countries there is no established pool of experienced practitioners to serve as practical law professors. Law professors usually hold practical experience in contempt. Law schools have no pressure to attract experienced lawyers to join the law faculty. In Japan and South Korea, many new law schools have recruited a selection of talented attorneys to join the faculty, although these new members have not yet been fully integrated into the faculty. The U.S. experience also indicates that expanding skills and clinical courses is more expensive because classes need to be smaller to allow time for close supervision and feedback.

In addition, support from the bench and bar is important for the development of lawyering skills training and clinical legal education. In the U.S., a model student practice rule helped pave the way for students to practice law. In China, Japan and South Korea, the status of student representation of clients in clinical legal education is uncertain. There is a need for a student practice rule. Lawyering skill training will not develop in the all countries without legislation permitting students to practice or without a willingness on the part of judges, prosecutors, attorneys, and bar associations to permit a greater number of students to be involved in legal representation.

Although the three countries face difficulties in revising professional education, opportunities also exist and more people are convinced that lawyering skill education is highly effective in educating future attorneys. The acceptance of the U.S. graduate school model shows that some common legal skills exist beyond legal systems and lawyering skill education is possible in East Asia. The rapid development of legal clinical education in the three countries is a good opportunity.

As the American scholar, Professor William Alford observed, the expanding number and roles of lawyers has been a significant factor in fostering a greater reliance on relatively visible rules, amendable to reasoned interpretation and application, even as the increase in such rules has been a factor in the growth of the bar. The expansion in the bar's size and significance also has consequences for the judiciary and for non-judicial dispute resolution in East Asian Countries. The prime salutary effects include the growth of an additional constituency for many aspects of the legal profession, including an expanding pool from which jurists and other leaders might be chosen.<sup>16)</sup>

We can expect that the need for better trained lawyers will only continue. First, the transition of legal practice is creating a need for high quality legal skills. In China, Japan, and South Korea, the legal system is becoming increasingly adversarial. Because lawyers now question witnesses in the court, they need to master advocacy skills. Second, law schools and law students also demand more lawyering education. The rapid development of legal education in the three countries has caused some chaos, but has also brought a hard competition. Only the law schools that may provide high quality education will survive and only law students with high professional ability will get labor opportunities in the future. Therefore, the market mechanisms will likely affect how the three countries provide legal education in the future.

---

16) See William Alford, Page 5, *supra* note 3.

