

Developing legal education in Vietnam

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Introduction

This article is written as a narrative part of the presentation I delivered in the seminar in Nagoya University CALE in October 2004. The focus of the session was to clarify the desired legal education for developing countries. Currently developed countries accept many students from developing countries and offer legal education and further more embark on different activities supported by state aid organizations or financing institutions like the World Bank or Asia Development Bank. The question that this article will discuss is whether it is clear to the supporting universities what sort of lawyer is most effective and most needed in developing countries? In this context I will elaborate on the legal education the Lund University currently offer and the program that the Law Faculty is supporting the Law Universities in Vietnam. An interesting point would be to examine the strategy in developing a legal education in Vietnam. This could be described as a clarification of “the theory of legal education” and an identification what sort of assumptions we have as to the “effective lawyer” in developing countries.

The following is based on the experience of and lessons learnt by the Swedish partners the Law Faculty Lund University in the Swedish Sida¹ funded project “Strengthening Legal Education in Vietnam”.

The Project

Developing legal education in Vietnam

Introduction

Around 1992 the Swedish government became more and more interested in the relation between legal developments and strives for poverty reduction and governmental reforms. As one of the cornerstones in developing a governmental structure to establish a rule of law concept in countries like Vietnam and Laos, and later on in some African countries, the Swedish government started to realize that legal education has to be reformed to facilitate the future development of the countries in this direction. The Vietnamese government was already from the beginning ready to embark on this idea and requested support from Sweden to develop the Law University in Hanoi. It should be noted that Hanoi Law University had been supported in earlier projects funded among others by the ADB and that there was good international connections in the university already at the start of the Swedish funded project.

When the request came to the Swedish government on supporting Hanoi Law University the first task was to find the Swedish partners to a project like this. From this point it should be noted that none of the Swedish universities with law faculties had any prior experience of

¹ Sida is the abbreviation of Swedish International Development Agency Cooperation

academic development projects in the “third world”.² The second task was to define the duration of such a project. To the universities such projects has to be put on top of the other tasks set by the government to be carried out, education and training of lawyers in Sweden and legal research. A development project like this would also compete with other interesting tasks our colleagues like to take on as legal consultations outside of the university. From these points it was not easy to strike a balance between the planned project activities and the capacity of the proposed Swedish partner university.

This early planning stage of the project, “Strengthening Legal Education in Vietnam” started already in 1994 but it took until 1998 to the inauguration of the project. The Law Faculty Lund University was after years of discussion between Vietnamese Universities and the Swedish agency selected as the Swedish partner. In the discussions between the Vietnamese side and the Swedish it also became clear that both the Hanoi Law University and the Law University of Ho Chi Minh City, at that time the Law College of Ho Chi Minh City, would be the Vietnamese beneficiaries of the project.

Structure of the Project

In the early discussion between the Sida and Lund University it became clear that this project was to be a long-term project. Sida foresaw the need of a strategy that would take time and it should be given time to create sustainability. The Project was to be carried out over different phases and each phase would last for approximately three and a half year. Each phase would be given a specific budget frame and an plan of operations, to be approved by both Sida and the MPI³ in Vietnam, had to be established prior the start of each phase. In the early days the Swedish partner was referred to as the consultant.

The phases of the project has so far been two and the third is about to begin in 2005. The first phase begun in 1998 and ended after three six months prolongations in July 2001. The second phase was opened in September 2001 and will last until the 28th of February 2005. The projected and soon to be approved third phase will according to the plan last until July 2009. The partners to the project aim for an additional phase of two and a half year until 2011 to phase out the project. Since the start of the project in 1998 the phases has gradually been extended so that the first was originally planned to last for three years, but after prolongation it lasted three and a half. The third phase is planned to last for four and a half year. As the phases grows so does the budget. This was for the first phase limited to 1.4 million US dollar and in the second phase it had grown to 3.2 million US dollar. In the third phase the budget is almost 10 millions US dollar. Of course the content of the plan of operations has also been developed, but at this time it could be said that the planned operations finally are in harmony with the budget.

To the structure of the project should be added that it is headed by a Steering Committee in Lund and by a Board of Directors in Vietnam. During the second phase a Swedish resident coordinator to the project has been posted in Vietnam and an extended organization for coordination is to be formed to meet the needs in the third phase. In Vietnam there are two

² The Umeå University had been supporting Ministry of Justice in Vietnam since a number of years but this is hardly an academic development project.

³ Ministry of Planning and Investment

project offices, one at each of the universities and with the major office in Hanoi.

The three universities are all a bit different from each other. Hanoi Law University was opened in 1979 and has today a staff of about 500 members: teachers, librarians and faculty administrative members. The Law University of Ho Chi Minh City established around 1995 has a staff of 200+. The yearly intake of students at the two Vietnamese Universities is at a level of 900–1.500 freshmen. The gender situation in the lecture force is divided 50/50 in both Hanoi and Ho Chi Minh City. The management teams are mainly male dominated. The Law Faculty Lund University is one of the original four faculties at the University founded in 1666. Today the Faculty has around 2.000 students and approximately 30 students on legal research to become doctor. The staff is about 100 persons and the academic staff is about 35 professors and lecturers.

The Project:

When it was started in 1998 the Ministry of Justice formulated an overall objective. This was later amended as is today

To achieve an accomplished curriculum development and teaching methodology for bachelor, master and doctor degrees, which fit the principles of a state based on rule of law and the needs of the “Doi Moi” policy, strengthening legal education capability by improving gender equal lecturers qualification, strengthening libraries information system and widening international cooperation.

This gives an overall view of what the project aims at lecturers, library and international cooperation. This overall objective is divided into three sub-objectives that are;

1. To develop gender equal lecture force, applying modern teaching methods based on modern literature and a modern curriculum
2. To developing law libraries to modern standard and define their role in modern legal teaching
3. To enhance legal education and project management and widening international cooperation

Over the years those three sub-objectives have been the same but the content has been developed over the years and especially the development of teaching methodologies and the libraries has been very successful.

The activities and aims under the three different sub-objectives could easily be described since the focus is very clear. The main components in teachers training is based on capacity building by introducing (1) modern teaching methodology, (2) enhanced English training and (3) subject orientated seminars. The first phase saw a limited number of activities, since the budget also was rather limited, such as a couple of workshops and a twice yearly teaching methodology training in Lund over a three week period for a limited number of teachers. Since the start of the project two junior teachers one from each of the two universities have participated in a one-year master course in Lund. During the second phase the funds were increased and more activities was to be carried out. Among them the most ambitious was an introduction of a joint master training program in International and Comparative Law and a first doctorate candidate was selected to take his courses in Lund.

Concerning the second of the three cornerstones, library development, the main activity

has been to train the librarians. As one of the most important factors for the development the Board of Directors approved a strategic plan for the future of the libraries. This plan concerned more than just book procurement to specific legal areas, it also set the strategy for developing the librarian staff and how to equip the libraries with computer based search motors and access to international legal databases like Westlaw, HeinOnline and the Swedish ELIN.

The third element in the project is management support and widening international cooperation and the first real activity carried out was the development of the LL.B curricula. This started by an extensive survey on different curricula in universities all over the world. It was completed and supplemented by an international conference in September 2002 which resulted in a new curricula developed by Hanoi Law University and the Law University in Ho Chi Minh City. The second main activity has been to widening international cooperation and a number of study tours have been conducted both within Europe and Asia and to the American Continent. As a result we have made a lot of useful contacts that has participated in different activities over the years.

The three cornerstones of the project proved to be the perfect choice already from the beginning and all the planning that preceded the inauguration of the project in 1998 was worth all efforts and of course the waiting time to let it start. The first phase of the project until 2001 has been describe as a “trying-out-phase” when the partners got the time to learn to know each other and the steering of the project got the necessary time to develop. Most other projects in this field would have been terminated after a four-year period but this was to be given another phase for three and a half year and then a further for four and a half year. The second phase, which now has come to an end, has proved to be successful in the way that more or less all targets for the development of legal teaching has been defined and the training institutions that will carry out different types of training has been found. The third phase will see the effective development of the two Vietnamese universities to meet the same standards as in other modern universities in the region such as you find it in Singapore, Malaysia and Thailand.

The Outcome of the Project – Training a Lecture Force and Modernize the Legal Training
What kind of lawyers does Vietnam need for the future?

Some introductory notes

First of all, this is Vietnam: The area of the country is 329.560 sq Km, the population is almost 80 million people, the country comprises of 61 provinces. There are two major laws teaching institutions designated Law Universities; Hanoi Law University and the Law University of Ho Chi Minh City, added to these two major there are four Faculties of Law, at the Universities of Can Tho, Dalat, and Hue and in the National University in Hanoi. There is at the moment approximately 11.000 law students in Vietnam. This could be compared to Sweden with an area of 449.964 sq km, a population of about 9 million people and 22 provinces. Legal education is carried out at six different faculties of law and the number of students is about 11.000. With about one tenth of the Vietnamese population Sweden has the same number of law students in the education process per year.

The Governmental Order No.10/CT-TTg from 2002 puts more stress to further enhance quality rising activities concerning both the LL.B. and the LL.M. training as well as the Doctorate training. The education strategy of Vietnam puts the goal to reach the ratio of 24 BA graduates per 1000 persons. At the present time, ratio of bachelors of law per 1000 persons is

6/1000. This ration is very low compared to other countries in the region. That is why legal training is seen as one of most important tasks in the education strategy of Vietnam at the present time.

The needs for lawyers are great in the whole of Vietnam. In one of the poorest provinces in the south of Vietnam there are 202 legal officers at provincial level, out of which 120 has an LL.B exam, 2 has a LL.B, 32 has a university degree other than law and 17 has just a college degree. At the district level there are 440 legal officers; out of which 189 has a LL.B degree, 0 LL.M, 39 has a university degree other than law and 29 has just a college degree. At the commune level there are 181 legal officers with a LL.B status 0, College level 42, degree from a university other than law 0 and 141 passed different short professional training courses. The yearly demand in this province is about 70 new lawyers on provincial level only, not to mention what is needed on district and commune level. It could be estimated that a number of provinces throughout of Vietnam has more or less the same demand.

To the Vietnamese partners of the project it has become more and more important to define the development process of curriculum that serves the needs of the education of the future Vietnamese lawyers. The project has further on to support every such strive towards a curriculum that will serve the purpose of the development of a state based on rule of law. In the new curriculum one of the most important changes are the introduction of comparative law as subject. Also the international aspect of law has been increased. But this is not really enough. A major part that lacks and is of vital interest in the development of a rule-of-law based country is legal training in the protection of human rights. Presently no such courses are available even though there is no lacking of written material in the libraries on the subject. Newly educated lawyers should therefore in the future have a LL.B degree with a solid understanding of the concept of rule of law and a good understanding of “Good Governance” in administrative law. The third criterion to meet is an ability to critically analyze legal texts and court cases.

The problem is; how do we get there? The problems starts with the teachers approach to teaching, continues with the status of the present textbooks, further on to the design of the lecture halls and ends with lacking resources in the library. The students could be said to be a problem of its own in the sense of a background in a school system that does not foster a critical mind and with the lack of school material haven't really improved in critical reading. In other words: There are a lot of things to turn around.

Solutions to the problem

The strategy to move the education towards a modernization and the target area of rule-of-law influenced teaching was taken after continuing discussion among the partners of the project. Those discussions are taken each annual meeting and among the Vietnamese Board of Directors and the coordinator of the project. The first target group that was identified was the teachers. It became clear at an early stage that teaching methods used was hardly up-to-date and the material used was also outdated and lacking in volume. The library was also in such a state that it was of limited use in modern teaching where the demand on data based searching of material form the cornerstones in esp. problem based learning. The factors that catered for a limited success in the education could be described as follows:

1. Most teachers are bound to use simple teaching methods like ordinary lecturing.
2. Most teachers have to rely on limited information sources

3. Most teachers are not subjected to training in teaching methodology
4. Most teachers does not have access to a well equipped library

This has as an effect that the students have never been subjected to any other methods of teaching than what is called the simple form of lecturing, namely the transfer theory. This is when the teacher more or less is transferring his knowledge to the students. Another back draw is the low level of English knowledge that the students possess which limits their possibilities to use English material and the legal databases that will be put to their use.

The second problem to tackle is the size of the classes and the design of the lecture halls. Lecture halls are in general of the size of two hundred students and the shape of a giant shoebox. To the students in the rear the activity in the front is just a rumor. It is virtually impossible to see what's on the black or white board in the front end of the lecture halls and most teachers are by those means just using the microphone and loudspeakers to distribute their knowledge. A look into the lecture halls with two hundred students could was at the start of the project a depressing sight. With the lack of communication between teacher and students most students in the rear of the lecture hall is asleep or doing other things than paying attention. But it should be noted that this is really not any big difference to legal teaching in Sweden some 25 years ago. With all due respect, under circumstances like this providing active learning is a difficult task. After two phases of the project this is already about to change.

There are unfortunately no easy solutions to this. The key issue in such a project as ours is to have patience and to be able to convince the donors that this will take time. In our case this was understood by the donor organization already from the beginning. The other key issue is to remind yourself that this has to take time and to be able to see the small changes as important steps forward. Secondly the partners to the project have to agree on a common platform to operate this change of teaching structure. Which in terms means that the partners walk in the same direction, if not necessary at the same pace but with the same road map.

In the project we have trained the professors and lecturers new way of lecturing in big classes, we have been giving them new ideas about how to move from the idea of lecturing to learning and we have more and more been introducing cases as a mean of analytic discussions. In the third phase of the project the partners⁴ have decided on more activities to create sustainable structures for a continuing development of curricula, teaching methodology and forms of examination. We are providing more courses on intermediate English and advanced English for teachers. The project is further to set up more computers for students to access legal databases and encourage teachers to use foreign material in their teaching. To achieve an analytic and critical we will introduce more case material to the students and teachers in the form of a casebook series. To train teachers in using cases seminars with American and Swedish professors have been held and this will be continuing in the future parts of the project.

Some final words

There are a number of things that has to be done for the future to create a modern teaching environment using a modern way of teaching. The perhaps most important item to stress for

⁴ We are no longer considering us as consultant and beneficiaries but partners. The process in the project has developed a twinning effect in the group and consultant activities have been altered to discussions among scholars.

the future is to introduce an analytical way of lecturing which means that the teachers turn away from the old fashion way of lecturing to establish a learning process among the students. To be able to convert to learning mode the teaching has to integrate with the library and the possibilities to find information in the library. This in turns mean that the idea of a library has to be changed from a simple book provider to an information centre. This is normally visible through the different course curricula were some of the assignments are carried out in cooperation with the library.

It is our firm believes that from now on there will be a rather fast change in the teaching methodology on both bachelor and master level in the universities in Vietnam. Our long time participation has and will go on to support this development. But the most important part is not just a rapid change of things, it is the continuing work on curricula development, teaching methodology and examination development through assessments. To make sure that there will be sustainability in this area an academic quality assurance center (AQAC) will be established in the both universities. This is the most demanding object from the projects point of view and this calls for a strong support from the two universities Board of Directors. These centers will in the future decide on pedagogical courses, curricula development and make course assessments to change examination processes and teaching methodology. With the support from these AQAC a new generation of teachers will form a new generation of students. Prepared to carry the task of the lawyers to fulfill the goal of a socialist state built on the foundation of rule of law.