

DRIVING AN OX CART TO CATCH UP WITH THE SPACE SHUTTLE: THE NEED FOR AND PROSPECTS OF LEGAL EDUCATION REFORM IN TAIWAN

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I. INTRODUCTION

Prior to the 1960s, the ox cart was a common means of transporting crops and heavy objects in rural Taiwan. For the time, it was a relatively effective and convenient mode of transportation. Legal education in Taiwan was established during the age of the ox cart, when society was simple and involved conflicts between small shops and neighboring consumers.¹ The main purpose of legal education was to train a limited number of legal experts to resolve legal issues of minimal complexity.²

In the nearly eighty years since the establishment of the modern legal education system in Taiwan, society has evolved considerably. Economic and technological developments have transformed the ways of living and doing business. Globalization has exposed Taiwan to external influences and fierce international competition. Taiwan's population faces not only internal problems but also issues concerning people and matters outside Taiwan's borders.

Globalization has also ushered in a host of legal issues, encouraging certain changes in the Taiwanese legal education system. For example, law departments and law colleges in Taiwan

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¹ The current legal education system in Taiwan started when the predecessor of National Taiwan University, Taihoku (Taipei) Imperial University, established the Law Faculty under the College of Liberal Arts and Political Science in 1928. See National Taiwan University, About NTU: Brief History, <http://www.ntu.edu.tw/english/about%20ntu/history.htm> (last visited Mar. 18, 2006).

² As shown in Table 1 *infra*, from the 1940s to the 1970s the total number of law departments only increased from two to six. Although there is no available data on the specific number of students admitted and graduated each year during this period, presumably the number is not large. The author of this article graduated from a law department in 1978; at that time, each law department admitted about 100 students each year. Thus, even in the late 1970s, the total number of law department graduates per year was approximately 600.

have increased in number,³ and some institutes now admit students with backgrounds in fields other than law, as they do in U.S. law schools.⁴ Some institutes even emphasize interdisciplinary legal education.⁵ More students earn their degrees in foreign countries and return with new knowledge to teach at Taiwanese universities.⁶ These universities, in turn, offer more courses in new fields of law.⁷

³ For Universities with law departments or institutes, see National Taiwan University, Index for 2005 School Year, Universities and Graduate Program Summary: Law Schools/Department, <http://reg.aca.ntu.edu.tw/college/search/typelist.asp?newtype=22> (last visited Mar. 18, 2006) [hereinafter NTU Index for 2005].

⁴ For example, Soochow University School of Law established a graduate division in 1990 admitting people who already had their college diplomas in fields other than law to give them basic legal training. See Soochow University School of Law, History, <http://www.scu.edu.tw/law/law1/law1.htm#law1> (last visited Mar. 18, 2006).

⁵ For example, the College of Law of National Taiwan University has the Graduate Institute of Interdisciplinary Legal Studies. See National Taiwan University, Graduate Institute of Interdisciplinary Legal Studies, <http://www.law.ntu.edu.tw/giilslaw/chinese/english/index.htm> (last visited Mar. 18, 2006).

⁶ To take the College of Law of National Taiwan University as an example, there are currently thirty-eight full time faculty members: twenty-one full professors, eleven associate professors, and six assistant professors. See NTU Law, Faculty: Full Time Professors, http://www.law.ntu.edu.tw/english/faculty/yh_03full_time_professors.htm (last visited Mar. 18, 2006); NTU Law, Faculty: Full Time Associate Professors, http://www.law.ntu.edu.tw/english/faculty/yh_03full_time_associate_professors.htm (last visited Mar. 18, 2006); NTU Law, Faculty: Full Time Assistant Professors, http://www.law.ntu.edu.tw/english/faculty/yh_03full_time_assistant_professors.htm (last visited Mar. 18, 2006). All of the assistant professors received their degrees from abroad within the last five years, including one from Japan, two from Germany, and three from the U.S. See NTU Law, Faculty: Full Time Assistant Professors, *supra*. Most of the full time associate professors earned their degrees within the last ten years. See NTU Law, Faculty: Full Time Associate Professors, *supra*. One received his degree from a local university; others are from foreign universities, including one from Japan, two from the U.S., one from France, two from the U.K., and four from Germany. *Id.* The current full professors include six with degrees from the U.S., five from Japan, and ten from Germany. See NTU Law, Faculty: Full Time Professors, *supra*. In the past, there were far more locally trained professors. For example, among the ten emeritus professors, five of them received only domestic degrees. See NTU College of Law, Faculty, http://www.law.ntu.edu.tw/03/3_1.htm (last visited Mar. 18, 2006). There were few, if any, law professors with foreign credentials in the early years of College of Law of National Taiwan University. Joseph L. Pratt, *The Two Gates of National Taiwan University School of Law*, 19 UCLA PAC. BASIN L.J. 131, 145 (2001).

⁷ To take the College of Law of National Taiwan University as an example, a good number of courses offered now were not available ten or fifteen years ago. These include, for example, Construction and Law, Legal Culture, WTO Law, Practical

Nonetheless, the basic structure and the fundamental problems of legal education in Taiwan have not changed. First, law departments maintain questionable admission standards, accepting students from high schools based on an exam that tests basic high school material.⁸ Like their educational qualifications, high school students' life experiences are limited. Most of these students are like flowers or plants raised and nurtured in the greenhouse.

Another problem is that the legal education system has not adapted to Taiwan's social and economic changes. There is a general lack of response to the trend of globalization. Teaching methods and learning still focus on memorizing information, and the importance of both practical training and analytical and reasoning skills is generally overlooked.⁹

Furthermore, the system fails to encourage independent thought and promote certain values.¹⁰ Professionals that have graduated from this system tend to require more time to become capable attorneys. Even after they acquire the requisite skills, these lawyers often find complicated issues, or issues with international elements, problematic. This situation is illustrated by the fact that international arbitrations or mediations established

Forensic Medical Science, American Legal Feminism, Globalization and Legal Order, Cyber Law, and some European Union Laws subjects. See NTU College of Law, 2005 Second Semester Course Schedule, http://www.law.ntu.edu.tw/05/5_1_1.htm (last visited Mar. 18, 2006).

⁸ For general information about the College Entrance Exam, see College Entrance Examination Center, <http://www.ceec.edu.tw> (last visited Mar. 18, 2006).

⁹ For example, according to the course schedule of the College of Law of National Taiwan University, there is only one legal practical training course offered, and it is not required. NTU College of Law, 2005 Second Semester Course Schedule, *supra* note 7. In the course, students are divided into different groups and led by more senior students to provide legal aid. They only orally answer questions with assistance from senior students and professors. This certainly helps the students to apply the law to daily life, but is not an equivalent to hands-on, clinical training. Also, based on the experience of the author, not many professors like to push students to analyze issues through asking and answering questions; students are generally not used to in-class discussions.

¹⁰ Based on the author's discussions with a number of practicing lawyers in Taipei, their experiences have been that most of newly graduated law students coming to their law firms for apprenticeship were not well organized and incapable of handling matters independently; they need very specific instructions to handle cases. Most of them do not aspire to fight for fairness and justice or to help the disadvantaged minority.

in Taiwan almost always use foreign counsel, even when both parties are local.

I attribute these problems to Taiwan's antiquated legal education system, founded during the age of the ox cart. In today's world, it is not possible to rely on such a cart to carry legal information if Taiwan desires to keep pace with a rapid developing society and economy.

The main purpose of this Article is to lay out the history and current status of legal education in Taiwan and the necessary elements to form a more effective legal education system. This Article will show the gap between the current and ideal legal education systems, and it asserts that change is urgently needed to pave the way for future development. Finally, the Article will evaluate the potential of two approaches to orchestrate that change: (1) an incremental approach and (2) a one-shot solution to transform the ox cart into a space shuttle.

II. THE HISTORICAL BACKGROUND AND DEVELOPMENT OF LEGAL EDUCATION IN TAIWAN

Taiwan legal education is marked by various foreign influences. Chinese tradition inspired its legal pedagogy, and the Japanese system helped shape its institutional arrangement.¹¹ Further, course content drew heavily from German legal texts.¹² In more recent years, U.S. law has shown a greater influence on the curriculum and the development of J.D.-type legal education.¹³

¹¹ Traditionally, legal education in Japan is taught through the undergraduate law department, a structure similar to legal education in Taiwan.

¹² Many papers and text books on civil and criminal law still frequently cite German books or views. *See, e.g.*, ZHENHUA YU, XING FA WEI FA XING LI LUN (2001).

¹³ For example, the College of Law of National Taiwan University offers an introductory course on the Anglo-American legal system, torts, and contracts. *See* NTU Law, Curriculum: Class Schedule – Monday, http://www.law.ntu.edu.tw/english/curriculum/yh_04class_calendar_monday.htm (last visited Mar. 18, 2006); NTU Law, Curriculum: Class Schedule – Thursday, http://www.law.ntu.edu.tw/english/curriculum/yh_04class_calendar_thursday.htm (last visited Mar. 18, 2006). The College of Law of National Taiwan University has the Graduate Institute of Interdisciplinary Legal Studies. *See* National Taiwan University, Graduate Institute of Interdisciplinary Legal Studies, *supra* note 5. Soochow University School of Law established a graduate division in 1990 admitting people who already have their college diplomas in fields other than law to give them basic legal training. *See* Soochow University School of Law, History, *supra* note 4.

In the Chinese tradition, emperors viewed law as a means of securing their political power.¹⁴ Thus, it was never the policy in traditional Chinese society to educate people to know the law, much less practice it.¹⁵ This is not to say that people were not held responsible for knowing the law and its provisions. If a law was violated, the wrongdoer would still be subject to punishment as provided in the codes or instructed by the rulers, without regard to the fact that he might not have been aware of the law.¹⁶

¹⁴ As one commentator stated, in the earlier history of China, the law "became a permanent and growing body of rules and penalties; an indispensable practical tool of the emperor's political sway." David F. Forte, *Western Law and Communist Dictatorship*, 32 EMORY L.J. 135, 151 (1983); see also Mark S. Painter, Sr., *One Legal Culture to Another: A Pennsylvania Lawyer Goes to China, is Asked about O.J., Gets Clobbered at Ping-Pong and Tries to Convey in an Hour the Essence of American Justice*, PA. LAW. Mar./Apr. 1997, at 32, 32 ("In traditional Chinese society, the Emperor was supreme, and the law was the tool by which the Emperor enforced his will.").

¹⁵ In fact, in traditional Chinese society, a general concept of harmony of the society was considered more desirable. Thus, knowing law was not so important and practicing law was considered to go against this concept of harmony. As one commentator noted:

It has been conventionally found that Chinese are litigation averse. . . . Accordingly it has long been Chinese rulers' goal to eliminate litigation. During the thousands of years of Chinese history, officials have made great efforts to educate people not to have disputes, and when disputes do occur, not to engage in litigation but to solve them in a harmonious way. The act of engaging in litigation alone demonstrates bad character on the part of the litigators. It also indirectly shows the bad character of the official who has failed to provide a good model for his people. 'Litigation masters,' the ancient counterparts of lawyers in China, were criticized, criminalized, or even killed.

Ni Zhu, *A Case Study of Legal Transplant: The Possibility of Efficient Breach in China*, 36 GEO. J. INT'L L. 1145, 1151 (2005).

¹⁶ David C. Rodearmel, *Military Law in Communist China: Development, Structure and Function*, 119 MIL. L. REV. 1, 5 (1988).

Because the Chinese legal system was intended to protect societal harmony and punish those who violated the rules of good order and conduct, many of the protections that evolved in Western societies to guard the rights of individuals against the state failed to emerge in China. First, the concept that an accused is presumed innocent until proven guilty did not develop in China. Second, there was no principle of equality before the law; rather, differing treatment was accorded based on the relative class and social status of the offender and victim. Third, voluntary surrender and confession, in keeping with Confucian ethics, were strongly encouraged and could be a mitigating factor in criminal cases; on the other hand, failure to confess was

One exception to the public's limited legal knowledge was the "shi-ye." Shi-ye were legal scholars that assisted county governors to decide cases.¹⁷ However, they were a small class of experts and did not serve the general public as educators or practitioners.¹⁸

While under the authority of China's Qing Dynasty, Taiwan did not provide a system of legal education. Not until the Japanese colonial period¹⁹ was the opportunity to study law made available.²⁰

Modern legal education took root during the late period of Japanese colonization in Taiwan with the founding of the Law Faculty in 1928 at Taihoku (Taipei) Imperial University under the College of Liberal Arts and Political Science.²¹ After World War II, the university's legal education underwent several organizational changes. The College of Liberal Arts and Political Science split into the College of Liberal Arts and the College of Law, under the renamed National Taiwan University,²² and the Law

generally seen as obduracy and could constitute an aggravating factor. Torture as a means of obtaining a confession during trials was specifically allowed under the penal code of the Ch'ing dynasty (1644-1912). Fourth, if the laws did not specifically address a given offense or penalty, a magistrate could apply another statute by analogy. Finally, there were no defense attorneys to assist the accused.

Id. Knowing the contents of the law was never a precondition for punishment in traditional Chinese society.

¹⁷ See LIN DUAN, *preface to WEBER'S VIEW ON TRADITIONAL CHINESE LAW: WEBER'S COMPARATIVE SOCIOLOGY CRITICISM* (2003), available at <http://ssrc.sinica.edu.tw/ssrc-home/doc4-5/11.pdf>.

¹⁸ There is no known precise number of "shi-ye" in ancient China, but since the "shi-ye" worked at the magistrate, the number was presumably limited, and their jobs did not include helping people.

¹⁹ National Taiwan University's predecessor, Taihoku (Taipei) Imperial University, was established in 1928 and was Taiwan's first university. National Taiwan University, About NTU: Brief History, *supra* note 1. Prior to 1928, there was no university education in Taiwan, and thus no formal legal education. See *id.*; see also *infra* text accompanying notes 23-27.

²⁰ It was only after the establishment of the first law department that people had the opportunity to study law at school. See *infra* text accompanying notes 21-23.

²¹ See NTU Law, About NTU Law: History and Development, http://www.law.ntu.edu.tw/english/introduction/yh_01history_development.htm, (last visited Mar. 18, 2006).

²² *Id.*

Faculty became the Law Department.²³ These changes started a new page in the history of Taiwanese legal education.

During the colonial years, some Taiwanese people who were able to complete their legal education in Japan eventually became judges there,²⁴ where they were widely esteemed.²⁵ They returned to Taiwan after the end of Taiwan's colonial period to teach at different universities.²⁶ Some of these judges also became Grand Justices, positions similar to that of the constitutional court judge in some other countries.²⁷ These judges and professors introduced many Japanese legal theories and practices into Taiwan, enriching its legal system and legal education structure.²⁸ They also played an important role in raising the legal education system to a standard almost comparable with the Japanese legal education system.²⁹

Since the establishment of modern education, Taiwan's legal education has played an increasingly vital role. Some indicators

²³ *Id.*

²⁴ For example, Professor Shun-Shin Hong was a judge in Japan before the end of World War II and later returned to Taiwan to teach at National Taiwan University Department of Law. He became a Grand Justice of Council of Grand Justices (the Constitutional Court of Taiwan) in 1976. Justices of the Constitutional Court, Judicial Yuan, http://www.judicial.gov.tw/constitutionalcourt/EN/p01_04.asp (last visited Mar. 18, 2006). When the author was a student, Professor Hong was a full time professor at National Taiwan University. Another example is Professor Chang-lin Tsai, who received a law degree in Japan during the colonial period and returned to Taiwan to become a Grand Justice from 1952-1958 and to teach at National Taiwan University. *Id.*

²⁵ They were respected because of their teaching positions at the oldest university, National Taiwan University, and their position as grand justices, a position many people consider a high honor.

²⁶ See *supra* note 24 and accompanying text.

²⁷ See *id.*

²⁸ SHUN-SHIN HONG, JURISPRUDENCE (1982) is still an often-cited book. See, e.g., Ministry of Education, Research Handbook, Chapter 5: Legal Structure http://www.edu.tw/EDU_WEB/EDU_MGT/DISPL/EDU1853001/research/7handbook/05.htm (last visited Mar. 18, 2006).

²⁹ There is no quantifying data to evaluate these contributions, but based on the fact that during the early period of Taiwan's modern legal education not many professors had foreign degrees, these Japanese trained professors played important roles in Taiwan's legal education and legal system by teaching at universities and writing books, thus helping to incorporate the Japanese legal system into Taiwan's.

help to illustrate that importance: the number of law departments is rapidly increasing,³⁰ and an unbelievably large number of political leaders have their law degrees, mostly from the College of Law of National Taiwan University.³¹ The President,³² the Vice President,³³ the current Premier,³⁴ six (including the current chairman) out of total nine chairmen of the ruling party,³⁵ the current chairman of the biggest opposition party (Koumintang or KMT),³⁶ a previous Kaohsiung Municipality (directly under the jurisdiction of central government) mayor,³⁷ and the current Taipei Municipality (the capital city) mayor are all graduates of the College of Law of National Taiwan University,³⁸ not to mention that many more legislators are graduates of the same or other law colleges.

In the past, before Taiwan had become fully democratized, older people would urge young people to avoid learning law and getting involved in political affairs.³⁹ They preferred that the young talented people in their families and communities learn

³⁰ See sources cited *infra* note 49.

³¹ See *infra* notes 32-38 and accompanying text.

³² Office of the President, Republic of China (Taiwan), President Chen: Biography, <http://www.president.gov.tw/en> (follow "President Chen" hyperlink; then follow "Biography" hyperlink) (last visited Mar. 19, 2006).

³³ Office of the President, Republic of China (Taiwan), Vice President Lu: Biography, <http://www.president.gov.tw/en> (follow "Vice President Lu" hyperlink; then follow "Biography" hyperlink) (last visited Mar. 19, 2006).

³⁴ Executive Yuan, Republic of China (Taiwan), Premier, <http://www.ey.gov.tw/mp?mp=11> (follow "Premier" hyperlink) (last visited Mar. 19, 2006).

³⁵ Democratic Progressive Party, Past to Present Party Leaders, <http://www.dpp.org.tw> (follow "Display of Party History" hyperlink; then follow "Past to Present Party Leaders" hyperlink) (last visited Mar. 19, 2006).

³⁶ Kuomintang Global Website, Party Leader: Ma Ying-jeou, <http://www.kmt.org.tw/AboutUs/Aboutus-6.html> (last visited Mar. 19, 2006).

³⁷ Previous mayors of Kaohsiung can be found at Civil Affairs Bureau, Kaohsiung City Government, Important Civil and Administrative Events, http://cabu.kcg.gov.tw/CmsShow.aspx?ID=770&LinkType=3&C_ID=740 (last visited Mar. 23, 2006).

³⁸ Welcome to the Official English Website of the City of Taipei, Mayor's Office, <http://english.taipei.gov.tw/TCG/index.jsp> (follow "The Mayor" hyperlink; then follow "Biography" hyperlink) (last visited Mar. 19, 2006).

³⁹ When the author was still young, his parents urged him not to study law or, in the alternative, study law, but not participate in political affairs. This was not uncommon advice at the time.

more “neutral subjects,” such as medicine and engineering, because they believed learning law would lead to politics, and politics were risky; before democratization, political involvement could possibly jeopardize lives and freedom.⁴⁰ However, since democratization, law seems to have become one of the top choices for high school students in Taiwan if they are considering social and humanitarian subjects.

In the early days of modern legal education in Taiwan, there were debates about the nature of legal education. Some argued that legal education should be general education to enhance the overall educational and moral development of the students.⁴¹ These critics argued that this general education model would also cultivate creativity and competence in law.⁴² In contrast, others believed that legal education should be professional education, through which students would be equipped with the ability to engage in their profession.⁴³ Today, such theoretical debates are seen with less frequency, mainly because the legal education system has had to face challenges arising from social and economic development, issues beyond the philosophical debates.⁴⁴ The goal of legal education today has become the enhancement of competence and competitiveness of Taiwanese law students in domestic and international markets.⁴⁵

⁴⁰ During the martial law period between 1949 and 1987 in Taiwan, the so-called “White Terror” period, many feared accusations of rebellion for merely complaining about politics. Many complaints or political views were considered unacceptable and could be subject to severe criminal procedures. See Lee Xiao-Feng, *Types of Political Cases During Taiwan’s Martial Law Period*, Nov. 23, 2000, http://www.jimlee.idv.tw/art_01_13.htm.

⁴¹ For a discussion on legal education in Taiwan as more professional and practical oriented versus general and theoretical oriented, see Chen Li-Tong, *University Legal Education and Nurturing Law Persons in Our Country*, News Wave- Educational Research & Development, Taiwan Education Center (Dec., 2000), <http://www.tw.org/newwaves/54/2-4.html>.

⁴² *Id.*

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ *Id.*

III. TAIWAN'S CURRENT LEGAL EDUCATION

A. THE INSTITUTIONAL ARRANGEMENT

The current face of legal education has evolved since its introduction nearly eighty years ago.⁴⁶ The most salient marker of this development may be the expansion of the educational system. As of 2004, there were a total of ninety-four law departments and institutions among the universities, colleges, and vocational schools.⁴⁷ Sixty-one of these departments and institutions were founded between 1995 and 2004.⁴⁸ Excluding vocational schools, night schools, and extension schools, Table 1 shows the growth in law departments and graduate institutes.

TABLE 1: THE TOTAL NUMBERS OF LAW DEPARTMENTS AND INSTITUTES⁴⁹

Years	Numbers of Law Departments	Numbers of Financial and Economic Law Departments	Numbers of Graduate Institutes
Before 1945	2	—	—
1946	3	—	—
1949	4	—	—
1955	4	—	1
1961	4	—	2
1963	5	—	2
1964	5	—	3

⁴⁶ If we count the history of legal education from the taking-over of Taiwan by the Nationalist Government and the bringing-over of the legal system to Taiwan from the Mainland in 1945, it has been sixty years. However, if we include the establishment of the Law Faculty at Taihoku (Taipei) Imperial University in 1928, it has been about eighty years.

⁴⁷ See sources cited *infra* note 49.

⁴⁸ See *id.* These include one department at a five-year vocational school; three departments in two-year vocational night schools; eighteen departments in universities; three departments in university night schools; three departments in university extension divisions; twenty graduate institutes; ten on-the-job master programs; and three doctorate programs. *Id.*

⁴⁹ This information was compiled by the author's assistant, Mr. Yang Yue-ping, from National Taiwan University, 2005 Online University Exposition, <http://univ.edu.tw/index1.htm> (last visited Mar. 19, 2006), and NTU Index for 2005, *supra* note 3.

Years	Numbers of Law Departments	Numbers of Financial and Economic Law Departments	Numbers of Graduate Institutes
1966	6	—	3
1968	6	—	4
1971	6	—	5
1977	6	—	6
1979	6	1	6
1980	7	1	7
1988	7	1	9
1991	7	2	9
1992	7	2	10
1993	9	2	10
1994	9	2	10
1995	9	2	11
1996	10	2	12
1997	11	2	14
1998	11	3	14
1999	11	3	15
2000	12	4	17
2001	13	7	17
2002	13	8	19
2003	15	9	22
2004	15	9	22
2005	15	10	22

While students are responding to this growth in legal education by applying in greater numbers, faculty size has lagged behind.⁵⁰ To take the largest and oldest law college as an example, the College of Law at National Taiwan University has around 1,400 students including extension education students,⁵¹ thirty-

⁵⁰ There is no exact figure to show the numbers of law professors and law department students in Taiwan.

⁵¹ As of February, 2006, there were 1,406 students enrolled at the College of Law of National Taiwan University. NTU Law, About NTU Law: Organization, <http://www.law.ntu.edu.tw/english/Index.html> (follow "About NTU Law: Organization" hyperlink) (last visited Mar. 19, 2006).

eight full-time professors, and nineteen part-time professors.⁵² These figures show a professor-to-student ratio of about 1:24.⁵³ Thus, at Taiwan's most prestigious university, there are an insufficient number of professors to carry the teaching load.⁵⁴

1. Undergraduate Legal Study

The main body of legal education lies in undergraduate programs rather than professional education. As such, the purpose of legal education is not to produce practicing attorneys but to provide a general education by introducing concepts, ideas, and the philosophical aspects of law. Most law departments and law colleges provide a four-year, full-time degree.⁵⁵ For those students who intend to work while pursuing their degree, there are a number of universities that offer night schools or extension schools.⁵⁶

Most law departments use the college entrance exam held by the College Entrance Examination Center as the basis of admissions.⁵⁷ In other words, admission to universities and colleges is

⁵² See sources cited *supra* note 6.

⁵³ This ratio was calculated based on the total number of faculty members, with part time professors teaching day classes counted as one half of a full time professor, and the total number of daytime students. Compare sources cited *supra* note 6, with NTU Law, About NTU Law: Organization, *supra* note 51.

⁵⁴ Comparing the course schedule to the number of full time faculty members, it is evident that the teaching load is not light. Compare NTU Law, Faculty: Full Time Professors, *supra* note 6, with NTU Law, Curriculum http://www.law.ntu.edu.tw/english/curriculum/yh_04class_calendar_class_hours.htm (follow the hyperlink for the various days of the week) (last visited Mar. 19, 2006). Most full-time professors have more than eight hours of courses each week.

⁵⁵ There is only one university in Taiwan requiring law department students to complete a five-year program. See Soochow University School of Law, Curriculum: Bachelor of Law, <http://www.scu.edu.tw/ENGLISH/law/curr/1lb/1lb.htm> (last visited Mar. 20, 2006).

⁵⁶ For example, National Taiwan University has an extension program for law studies. See Introduction to National Taiwan University College of Law Undergraduate Continuing Education Program, <http://www.dpd.ntu.edu.tw/%E6%B3%95%E5%BE%8B%E7%B3%BB%E7%B0%A1%E4%BB%8B.htm> (last visited Mar. 20, 2006). Soochow University School of Law has LL.M. programs for part time students. See Soochow University School of Law, Evolution of School of Law: Graduate Program, <http://www.scu.edu.tw/lex/> (follow "Introduction to School of Law" hyperlink; then follow "Evolution of School of Law") (last visited Mar. 20, 2006).

⁵⁷ See, e.g., NTU College of Law, Undergraduate Admissions, http://www.law.ntu.edu.tw/04/4_3_1.htm (last visited Mar. 20, 2006).

decided primarily by the performance of the students in an exam that tests their understanding of Chinese language, English, mathematics, history, and geography.⁵⁸ Some law departments do admit a small portion of their students based on various performance and talent shown in their high school years.⁵⁹

Because law departments only require that students have their high school diplomas,⁶⁰ they can be as young as eighteen years old when they begin their legal studies. Their limited social and work experiences have been a source of struggle for many students in understanding complicated legal issues, the abstract concepts of justice and fairness, and the difficult terms and sentence structures of law and legal materials.⁶¹

Students may choose to study law as part of a double major or as a minor degree.⁶² When pursuing a double major, students are required to meet the same requirements as single-degree law students.⁶³ For students studying law as a minor degree, they must fulfill a smaller number of requirements.⁶⁴

Many of the law departments are separated into divisions that specialize in different areas of law. A common division focuses on "financial and economic law."⁶⁵ Some universities have even created an independent department for financial and economic law, reflecting the realization on the part of universities

⁵⁸ For information about the College Entrance Examination, see The College Entrance Examination Center, <http://www.ceec.edu.tw> (last visited Mar. 20, 2006).

⁵⁹ National Chengchi University Department of Law admits a limited numbers of students without regard to the college entrance examination. See National Chengchi University Department of Law, <http://www.law.nccu.edu.tw> (last visited Mar. 20, 2006).

⁶⁰ In addition, they must have taken the College Entrance Examination.

⁶¹ The author has had many opportunities to chat with his students. One of the mostly common concerns is the difficulty of understanding law provisions and law books during their first two years of study.

⁶² For the requirements for taking law as a second major at National Taiwan University, see NTU College of Law, Changing Major/Second Major/Double Major, http://www.law.ntu.edu.tw/04/4_3_2.htm (last visited Mar. 20, 2006).

⁶³ For the course requirements for double-major students at National Taiwan University, see *id.*

⁶⁴ For the minor in law twenty-credit requirements for National Taiwan University, see National Taiwan University Office of Academic Affairs, Online Q&A, <http://www.aca.ntu.edu.tw/chinese/qass-10.htm> (last visited Mar. 20, 2006).

⁶⁵ For example, College of Law of National Taiwan University established such a division in 1990. See NTU Law, About NTU Law: Organization, *supra* note 51.

that they needed to produce experts in this area of law to help sustain and further promote the economic development that took off in the 1980s.⁶⁶

2. Graduate Legal Study

In addition to the undergraduate law department, there are graduate institutes in many universities established in conjunction with the law department to admit students with bachelor's degrees.⁶⁷ As in the law departments, many graduate institutes have separate divisions that reflect social and economic needs.⁶⁸ The divisions commonly focus on legal history and philosophy, criminal law, civil and commercial law, financial and economic law, and international law.⁶⁹

Most of the graduate institutes decide their admissions based on entrance exams.⁷⁰ Admitted students must study full time at their institute for at least two years.⁷¹ They are required

⁶⁶ See, e.g., Fu-Jen University, Department of Financial and Economic Law, <http://www.financelaw.fju.edu.tw/> (last visited Mar. 20, 2006).

⁶⁷ See, e.g., National Taiwan University College of Law, Master Program Admissions, http://www.law.ntu.edu.tw/04/4_2.htm (last visited Mar. 20, 2006); National Chengchi University, Department of Law, Master Program, <http://www.law.nccu.edu.tw/html/modules/newbb/viewforum.php?forum=11> (last visited Mar. 20, 2006); National Taipei University, Graduate Programs, <http://www.ntpu.edu.tw/law/en/eindex.htm> (follow "Courses" hyperlink; then follow "Graduate Program" hyperlink) (last visited Mar. 20, 2006); School of Law Fu Jen Catholic University, Introduction: Present Situation, <http://www.ls.fju.edu.tw/introduction.htm> (follow "Present Situation" hyperlink); Soochow University School of Law, Curriculum: Master of Laws, <http://www.scu.edu.tw/ENGLISH/law/curr/llm/llm.htm> (last visited Mar. 20, 2006); Department of Law National Ching Cheng University, Curriculum: Graduate Institute of Law, http://www.ccunix.ccu.edu.tw/%7Edeptlaw/eng/curriculum/inf_grad.htm (last visited Mar. 20, 2006); National University of Kaohsiung, The College of Law, <http://www2.nuk.edu.tw/lawyuan/index.htm> (last visited Mar. 20, 2006).

⁶⁸ See sources cited *supra* note 67.

⁶⁹ See *id.*

⁷⁰ For example, College of Law of National Taiwan University has seven divisions in its LL.M. program: legal history and legal philosophy, public law, civil and commercial law, criminal law, financial and tax law, economic law, and international law. See National Taiwan University College of Law, Master Program Admissions, *supra* note 67. Applicants are required to take different entrance exams depending on the division to which they are applying.

⁷¹ The law provides that the study period for graduate students is from one to four years. See University Law, art. 26, available at <http://law.moj.gov.tw/Scripts/>

to take a certain number of courses and complete an L.L.M. thesis in order to graduate.⁷² Most students spend three or four years pursuing their degrees; however, it is not unusual for them to take longer due to the demands of writing the thesis and preparing for the bar or judicial examinations during their LL.M. years.⁷³ Many students also practice law during their third and fourth years at the graduate institutes.⁷⁴ The LL.M. thesis is a more formal and serious one, compared to the LL.M. paper required in most of the LL.M. programs in the United States.⁷⁵

Within the graduate institutes, there are a number of universities that offer doctoral programs to allow those with master degrees to conduct additional academic research.⁷⁶ Many doctoral students intend to pursue academic careers, but a larger number of them are practicing attorneys and judges who enter the program to advance their careers.⁷⁷

In recent years, an increasing number of special graduate or undergraduate institutes cater to students with undergraduate and graduate degrees in areas other than law.⁷⁸ These students

Query4B.asp?FullIDoc=%A9%D2%A6%B3%B1%F8%A4%E5&Lcode=H0030001.

⁷² See, e.g., NTU Law, Admission: Requirements for Graduation, <http://www.law.ntu.edu.tw/english/Index.html> (follow "Admission: Requirements for Graduation" hyperlink) (last visited Mar. 20, 2006).

⁷³ This is based on the experiences of the author and his colleagues teaching and supervising LL.M. papers at National Taiwan University. See also Shu-chin Grace Kuo, *Rethinking the Masculine Character of the Legal Profession: A Case Study of Female Legal Professionals and Their Gendered Life in Taiwan*, 13 AM. U. J. GENDER SOC. POL'Y & L. 25, 39 (2005).

⁷⁴ This is based on the experiences of the author and his colleagues teaching and supervising LL.M. papers at National Taiwan University.

⁷⁵ The length of many of the LL.M. theses written in Taiwan can exceed 200 pages. *Id.*

⁷⁶ See, e.g., NTU Law, Ph.D Admissions, http://www.law.ntu.edu.tw/04/4_1.htm (last visited Mar. 20, 2006); College of Law of National Chenchi University, Ph.D program, <http://www.law.nccu.edu.tw/html/modules/mydownloads/viewcat.php?cid=23> (last visited Mar. 20, 2006); National Taipei University, Graduate Programs, *supra* note 76; School of Law Fu Jen Catholic University, Introduction: Present Situation, *supra* note 76; Soochow University School of Law, Curriculum: Doctor of Philosophy in Law, <http://www.scu.edu.tw/ENGLISH/law/curr/phd/dr.htm> (last visited Mar. 20, 2006).

⁷⁷ This is based on the author's experience as the dean of the College of Law of National Taiwan University.

⁷⁸ See, e.g., National Taiwan University, Graduate Institute of Interdisciplinary Legal Studies, *supra* note 5.

follow coursework similar to that of law departments and graduate after about three years.⁷⁹ Universities have gotten a strong response to the program, receiving applications from medical doctors and those with doctoral and graduate degrees in other fields.⁸⁰ While some of them returned to their original professions, many graduates have become lawyers, judges, and law professors.⁸¹ Their expertise in different fields has certainly contributed to legal studies and research as well as the legal profession. This legal education system should become an important component of improving the quality of the legal profession in Taiwan.

3. Structure of Law Colleges

In the past, most law departments shared the same college with other social science departments, such as political science, sociology, and economics. Colleges were organized in this manner partly because of a regulation promulgated by the Ministry of Education that required a college to have at least three departments.⁸² Between the late 1980s and early 1990s, this requirement was lifted, and more law departments began their own colleges.⁸³

Despite the lifting of the regulation, the structures of law colleges still vary. Some law colleges have only one law department, while others have different law departments (such as the “department of judicial studies” and the “department of financial

⁷⁹ See, e.g., *id.*

⁸⁰ The author taught at the first such program in Taiwan at the School of Law of Soochow University for the first three years as a part time professor. There were practicing medical doctors, students with Ph.D.s or J.D.s, and certified public accountants. From the author's experience administering the College of Law of National Taiwan University, the Graduate Institute of Interdisciplinary Legal Studies also admits people with Ph.D. or masters degrees. Professors, medical doctors, engineers and certified public accounts have joined the institute.

⁸¹ For analysis and comparison of professional school-like legal education in Taiwan, see Get Law Service Network, Analysis on Domestic LL.M. degrees for Professionals Without Undergraduate Law Degree, <http://www.license.com.tw/lawyer/exam/view/bmaster/trend.shtml> (last visited Mar, 20, 2006).

⁸² See Academia Seneca, Conference on Education Reform: Collection of Perspectives (I) (Feb. 7, 1996), <http://www.sinica.edu.tw/info/edu-reform/farea8/j21/32.html>.

⁸³ *Id.*

and economic law," in addition to the "department of law") within a single law college.⁸⁴ There are advantages and drawbacks to forming a law college composed of many departments. One benefit is that multi-department colleges receive more funding.⁸⁵ Since university resources are normally allocated according to the number of departments and institutes in a college, more departments earn the college more resources.⁸⁶ Another benefit is that more departments demand more department directors. This can be of some significance, and may help attract faculty members to the college. However, a potential disadvantage of a multi-department law college is that conflicts may develop between different law departments. Fortunately, this issue does not often arise because most law colleges only have one law department.⁸⁷

B. CURRICULUM

1. General Features

As previously mentioned, because legal education occurs at the undergraduate level, the emphasis is not on litigation skills but on the understanding of basic legal principles.

The law department offers many traditional courses. These courses include Constitutional Law, Administrative Law, General Principles of Criminal Code, Specific Offences in the Criminal Code, General Principles of the Civil Code, General

⁸⁴ For example, National Taipei University College of Law has three law departments. See NTPU Department of Law, <http://www.ntpu.edu.tw/law> (last visited Mar. 20, 2006); NTPU Department of Judicial Studies, <http://www.ntpu.edu.tw/jslaw> (last visited Mar. 20, 2006); NTPU, Financial and Economic Law, <http://www.ntpu.edu.tw/felaw> (last visited Mar. 20, 2006).

⁸⁵ Based on the author's experience administering his college, when the University allocates annual or special budgets, the number of units (departments or institutes) within the colleges of the University is always one of the most important factors.

⁸⁶ University internal practices are not available to the public. However, the deans of various law colleges in Taiwan revealed to the author that the number of units within a college at their universities do play an important role in deciding the allocation of resources.

⁸⁷ See, e.g., College of Law of National Taiwan University, Department and Graduate Institute of Law, <http://www.law.ntu.edu.tw/english/Index.html> (last visited Mar. 20, 2006); National Chengchi University, Introduction to the College of Law, <http://www.nccu.edu.tw/server/publichtml/w600/ew600.html> (last visited Mar. 20, 2006).

Principles of Obligations, Specific Types of Obligations, Property in the Civil Code, the Family Part of the Civil Code, Succession in the Civil Code, Company Law, Commercial Instrument Law, Insurance Law, Maritime Law, Code of Civil Procedure, and Code of Criminal Procedure.⁸⁸

Although some newly established law departments in private universities are unable to offer a wide range of courses covering new topics, some older universities, especially the public ones, are capable of recruiting professors with expertise in traditional and specialized legal fields and can offer courses covering new, pressing legal issues.⁸⁹ Examples of the special fields include financial laws, corporate governance, securities law, government procurement law, competition law, consumer protection law, legal and economic relations between Taiwan and mainland China, WTO legal issues, legal aspects of biotechnology, and legal problems concerning electronic commerce and telecommunications.

To take the College of Law of National Taiwan University as an example, mandatory courses required by the university are Chinese, foreign language, and history.⁹⁰ The mandatory courses for first-year students include Constitutional Law, General Principles of Civil Code, General Principles of Criminal Code (I), and General Principles of the Obligations Part in the Civil Code (I).⁹¹ For the second-year students, the mandatory courses are General Principles of the Obligations Part in the Civil Code (II), Specific Kinds of Contract, Property Part in the Civil Code, Family and Inheritance Parts in the Civil Code, General Principles of Criminal Code (II), Specific Types of Offenses in the Criminal Code, Administrative Law, Advanced Administrative Law Group (Case Studies on Administrative Law, Advanced Administrative Law, and Specific Topics of Administrative Law).⁹² For

⁸⁸ See, e.g., NTU Law, Curriculum: Courses Introduction – Graduate, http://www.law.ntu.edu.tw/english/curriculum/yh_04course_introduction_graduate.htm (last visited Mar. 20, 2006).

⁸⁹ For lists of faculty members and their areas of specialties, see sources cited *supra* note 6. For a list of courses offered, see NTU Law, Curriculum: Courses Introduction – Graduate, *supra* note 88.

⁹⁰ NTU Law, Admission: Requirements for Graduation, *supra* note 72.

⁹¹ *Id.*

⁹² *Id.*

the third-year students, the mandatory courses include Code of Civil Procedure, Code of Criminal Procedure, General Introduction of Commercial Law and Company Law, Negotiable Instruments Law, Insurance Law, and Maritime Law.⁹³ For the fourth-year students, the required courses are the Integrated Discussion on the Substantive and Procedural Aspects of Civil and Commercial Laws, the Integrated Discussion on the Substantive and Procedural Aspects of the Criminal Laws, or the Integrated Discussion on the Substantive and Procedural Aspects of Administrative Law.⁹⁴ In addition to these, there are three divisions in under the College of Law, namely, the Division of Legal Science, Division of Judiciary, and Division of Financial and Economic Law.⁹⁵ For the Division of Legal Science and the Division of Judiciary, students must take two of three courses from Political Science, Economics, and Sociology.⁹⁶ They must also take Legal History, Public International Law, Private International Law, and Jurisprudence.⁹⁷ For the Division of Legal Science, students must further take Introduction to Anglo-American Law, Anglo-American Contract Law, and Anglo-American Torts.⁹⁸ For the Division of Judiciary, they must further take Law Governing Non-Litigation Matters, Practical Training for Civil Trial, and Practical Training for Criminal Trial.⁹⁹ For the Division of Financial and Economic Law, students must take Economics and Compulsory Enforcement Law or Bankruptcy.¹⁰⁰ They must also take five of the following courses: Trademark Law, Patent Law, International Trade Law, International Economic Law, General Principles of Taxation, Specific Topics of Taxation, Securities Exchange Law, Fair Trade Law, Environmental Law, Banking Law, Financial Administrative Law, Labor Law, Introduction to Intellectual Property Law, European Business Enterprises Law, Trust and Pension Law, Land Law, Copyright Law, Consumer

⁹³ *Id.*

⁹⁴ *Id.*

⁹⁵ NTU Law, About NTU Law: Organization, *supra* note 51.

⁹⁶ *Id.*

⁹⁷ *Id.*

⁹⁸ *Id.*

⁹⁹ *Id.*

¹⁰⁰ *Id.*

Protection Law, Finance and Taxation Law, Corporate Governance, Mainland China Legal System, European Union Law, Economic Analysis of Law, Agricultural Eco-technology Law, Arbitration Law, Financial Law, Competition Law and Its International Perspective, and WTO Legal Issues.¹⁰¹ There is also a wide range of elective courses available for students to take.¹⁰²

Since a large proportion of law professors received their higher degrees in foreign countries, they are able to teach courses on foreign and comparative law.¹⁰³ Common foreign law courses include the study of European, Japanese, German, French, or Anglo-American law.¹⁰⁴ Some universities also offer Chinese law courses.¹⁰⁵ Regarding comparative law courses, the comparisons may focus on, for example, the similarities and differences between Taiwanese and Anglo-American law or between Taiwanese law and the law in other continental European systems.

In most law colleges and departments, the core courses are taught in large classes.¹⁰⁶ In some law departments, a class might have more than three hundred students.¹⁰⁷ However, for those elective courses not tested by the bar and judicial Examinations, there might be a very small number of students, especially if the courses are reading or writing intensive.¹⁰⁸

In Taiwan, some of the universities are considered research-oriented.¹⁰⁹ In these universities, conducting research is as important, or more important, than teaching for the purpose of evaluating the professor's performance. Although this places great

¹⁰¹ *Id.*

¹⁰² For a list of courses, see NTU Law, Curriculum: Courses Introduction – Graduate, *supra* note 88.

¹⁰³ *See id.*

¹⁰⁴ *Id.*

¹⁰⁵ *See, e.g., id.*

¹⁰⁶ Lai, Lai-kung, Future Trend of Domestic Law School Development, http://www.lib.hcu.edu.tw/library_service/oration/file/02.doc (last visited Mar. 23, 2006).

¹⁰⁷ *Id.*

¹⁰⁸ For example, the author teaches Competition Law, WTO Law and International Trade Law in English, which a very limited number of students elect to take.

¹⁰⁹ For a discussion on research oriented universities, see *Analyzing Research Oriented Universities*, SCI. & TECH. DAILY, Dec. 4, 2002, available at <http://>

pressure on professors,¹¹⁰ research helps professors enrich their teaching materials and nurture more knowledgeable and independent students.

2. Clinical Training

Despite the importance of practical legal training, there are few clinical training programs or courses available at most universities.¹¹¹ The general lack of effective clinical education is a real problem. Clinical legal education provides students with practical training to assist in the development of their ability to analyze and resolve real legal issues. While a growing number of law departments offer courses on case studies which form a part of practical training,¹¹² some law departments do not make this type of course mandatory.¹¹³ Worse, there are few universities that have their own legal-service clubs, which provide an opportunity for professors to train students in handling real cases.¹¹⁴

big5.xinhuanet.com/gate/big5/news.xinhuanet.com/st/2002-12/04/content_649306.htm.

¹¹⁰ For example, at the College of Law of National Taiwan University if a professor cannot pass the evaluation process for the second time, he may be subject to dismissal. See NTU College of Law, National Taiwan University College of Law Rules for Faculty Evaluation http://www.law.ntu.edu.tw/07/17_1_7.htm (last visited Mar. 25, 2006).

¹¹¹ Even at the College of Law of National Taiwan University, there is no real clinical training program. See *supra* note 9 and accompanying text.

¹¹² See, e.g., NTU College of Law, 2005 Second Semester Course Schedule, *supra* note 7; Law Department of Ming Chuan University, Law Department List of Mandatory Courses (Applicable for 2005 enrolling students), available at <http://www.mcu.edu.tw/department/law/indexc/college/94%E8%AA%B2%E7%A8%8B%E6%9E%B6%E6%A7%8B%E8%A1%A8.pdf>; College of Law of Shih Hsin University, Applicable for 2005 New Full-time Students Enrolling in Department of Law, <http://cc.shu.edu.tw/~law/timetable/94college.doc> (last visited Mar. 21, 2006).

¹¹³ See, e.g., Department of Law of Chinese Culture University, Mandatory Courses for Division of Legal Science in Department of Law, http://db.pccu.edu.tw/dept/crl_group/crrmlw/load/word/word-L/91-94L.doc (last visited Mar. 21, 2006).

¹¹⁴ See, e.g., Legal Service Club of College of Law of National Taiwan University, <http://www.law.ntu.edu.tw/legalservice> (last visited Mar. 21, 2006).

C. TEACHING METHOD AND TEACHING PROFESSION

1. *Teaching Method*

Most professors conduct their courses by giving lectures. Many write the legal structures on the black board to help students quickly understand the system of law. There is little classroom interaction between professors and students—neither asks questions—and students rarely challenge their professors in class.

There is only a small number of professors who use the Socratic method to teach their subject.¹¹⁵ These professors believe that conducting their courses in a question-answer process is inappropriate.¹¹⁶ They like to deliver their knowledge in a systemic and effective way.¹¹⁷ Others are unfamiliar with the Socratic method.¹¹⁸ Adherence to the traditional method of teaching may reflect unwillingness by the professors to subject themselves to student challenges or to change their teaching materials to adapt to the new method.

The lack of interaction between instructors and students is especially the case in larger classes. Here, professors tend to systematize the teaching materials and tell the students what the proper understanding or interpretation of the laws is.¹¹⁹ Students are not regularly pushed to develop different views. Instead of training their students to think harder and more independently

¹¹⁵ The author used the Socratic method in teaching Anglo-American Legal System, Anglo-American Contracts and Private International Law. He also uses it in Government Procurement Law, Competition Law, and WTO Law, which he currently teaches.

¹¹⁶ Some of the author's colleagues told him that a question-answer method would delay their delivery of knowledge.

¹¹⁷ Some of the author's colleagues told him they believe the lecture method allows them to teach their students much more information within a short time period.

¹¹⁸ Some of the author's colleagues told him the Socratic method would not allow students to receive knowledge systematically. Some others believe the method would confuse students.

¹¹⁹ See *supra* notes 117-18.

through a question and answer process,¹²⁰ professors require students to memorize large volumes of rules and provisions. Unfortunately, students are also then evaluated based on their memory performance in exams.

2. Teaching Profession

A noteworthy aspect of the legal education system in Taiwan is that a great portion of law professors earned their doctorates in Germany, the United States, Japan, France, and the U.K.¹²¹ They studied in different legal systems after finishing their primary legal education in Taiwan, and as a result, professors and scholars tend to be more familiar with legal theories developed in the foreign countries. Their basic legal education gives them a critical perspective on the foreign legal systems where they studied. Their educational backgrounds have deeply enriched Taiwan's legal system and are a source of renewal to new system as a whole.¹²²

In spite of the professors' backgrounds, the student body has shown a limited capacity in foreign languages skills.¹²³ In an unfortunate circuitous pattern, this limitation has contributed to a trend wherein students are less inclined to study abroad.¹²⁴ Students are also less inclined to go abroad for further legal education because they have already focused too much on the local

¹²⁰ From the author's experience, students are very responsive if the instructor asks the right questions and creates an interactive atmosphere.

¹²¹ For example, most of the faculty members of College of Law of National Taiwan University received their Ph.D. or S.J.D. from these countries. See sources cited *supra* note 6.

¹²² Pratt, *supra* note 6, at 146.

¹²³ Even the Ministry of Education admits a general lack of proficiency in English among university students. National Penghu University, Improving Students' English Capability by using Multi-Media at N.P.I.T., http://cc1.npit.edu.tw/~english_program/explanation.htm (last visited Mar. 21, 2006).

¹²⁴ Even the Research, Development and Evaluation Commission, an agency at the ministerial level in Taiwan, held a series of public seminars in 2005 to discuss reasons for fewer people going abroad to study and ways of responding to this trend. See Research, Dev. & Evaluation Comm'n, The Decrease of Students Studying Abroad and Measures to Improve the Situation: Beginning of Project, <http://research.rdec.gov.tw/public/Data/622212325589.dot> (last visited Mar. 27, 2006).

legal service market.¹²⁵ The introduction of foreign theories through foreign study is a very important way of engaging in the legal system. The student's unwillingness to study abroad should cause great concern.

D. BAR EXAMINATIONS AND PREPARATION SCHOOLS

There are three kinds of examinations relevant to legal education. First, there are public service examinations, which aim to recruit law personnel into the government.¹²⁶ Second, there is the judicial examination that qualifies people as judges or prosecutors.¹²⁷ Finally, there is the bar examination, which licenses individuals as attorneys.¹²⁸ The following section focuses on the last two examinations.

The courses tested in the lawyer and judicial examinations are essentially the same. They include Constitutional Law, Civil Code, Criminal Code, Code of Civil Procedure, Code of Criminal Procedure, Administrative Law and Compulsory Enforcement Law, Commercial Law and Private International Law, and Chinese Composition.¹²⁹ Those who pass the bar exam usually intern

¹²⁵ See Chang-fa Lo, Problems in Current Legal Education and Prospects of Legal Education Reform in Taiwan, http://distance.shu.edu.tw/spirit/plan_upfile/%E6%BC%94%E8%AC%9B%E7%B0%A1%E5%A0%B1-%E7%BE%85%E6%98%8C%E7%99%BC.ppt#278.9.??? (last visited Mar. 26, 2006).

¹²⁶ See Ministry of Examination, Civil Service Exams, <http://english.moex.gov.tw/mp.asp?mp=4> (follow "Exams in Brief" hyperlink; then follow "Civil Service Exams" hyperlink) (last visited Mar. 21, 2006).

¹²⁷ See Ministry of Examination, 2005 Civil Service Special Examination for Judicial Personnel, <http://www.moex.gov.tw/ct.asp?xItem=8758&ctNode=2156> (last visited Mar. 25, 2006).

¹²⁸ See Ministry of Examination, Professional and Technical Exams: Qualifications Screening Exams, <http://english.moex.gov.tw/mp.asp?mp=4> (follow Exams in Brief" hyperlink; then follow Professional and Technical Exams" hyperlink; then follow Qualifications Screening Exams" hyperlink) (last visited Mar. 21, 2006).

¹²⁹ For regulations governing subjects covered on the lawyer examination, see Ministry of Examination, Regulations for the Senior Examination for Professional and Technical Personnel: Lawyer, <http://english.moex.gov.tw/mp.asp?mp=4> (follow "Regulations" hyperlink; then follow "Professional and Technical Exams" hyperlink; then follow "Regulations for the Senior Examination for Professional and Technical Personnel: Lawyer" hyperlink) (last visited Mar. 21, 2006). For subjects covered on the judicial examination, see Ministry of Examination, 2005 Special Civil Personnel Exam for Judicial Personnel: Exam-related Matters, Subjects and Schedules for 2005 Special Third Level Civil Personnel Exam for Judicial Personnel, <http://www.moex.gov.tw/public/Attachment/572015582171.doc> (last visited Mar. 27, 2006).

at a law firm for five months to learn the practice of law. The next step is to take a one-month course from the bar association before they obtain their licenses.¹³⁰ Those who pass the judicial exam are required to attend the Judicial Training Institute for an extended training program as well as the district court, prosecutors' office, and the administrative agencies to observe law in practice.¹³¹ The program's training period lasts from one and a half to two years.¹³² When they finish the training, they are assigned to be prosecutors or judges.¹³³

Current requirements for taking the judicial or bar examinations are very lenient. Anyone can take the exam after completing twenty credits of the core law courses.¹³⁴ These rules have made law school attendance in many respects unnecessary.

Perhaps as a result of low class attendance, the passage rates for the judicial and bar examinations are low compared to the rates in other countries. Passage rates for the bar exam in the 1970s and 1980s hovered around 1 percent or less.¹³⁵ In recent years, the rates have increased to between 6 and 8 percent.¹³⁶ This means that in the past several years, about three hundred to four hundred people are admitted to practice law in Taiwan annually.¹³⁷ These low passage rates contribute to the distortion of

¹³⁰ For rules governing lawyer training, see Taiwan Bar Association, Rules on Training Before Practice, http://www.twba.org.tw/class_detial.asp?N_id=237 (last visited Mar 21, 2006).

¹³¹ For rules governing the judicial training program, see Ministry of Justice, *Judicial Personnel Training Regulations for the Training Institute for Judges and Prosecutors*, <http://mojlaw.moj.gov.tw/Scripts/Query4A.asp?Fcode=A0109009&FullDoc=%A9%D2%A6%B3%B1%F8%A4%E5> (last visited Mar. 21, 2006).

¹³² *Id.*

¹³³ Laws and Regulations Database of the Republic of China, Regulations on Candidates for Judges and Prosecutors, <http://law.moj.gov.tw/Scripts/Query4A.asp?FullDoc=all&Fcode=S0020051> (last visited Mar.21, 2006).

¹³⁴ Ministry of Examination, Introduction to the 2005 Professional and Technical Qualification Screening Examinations for Lawyers, Certified Public Accountants, Social Workers, Notary Public, and Land Registration Agents (May 27, 2005), <http://www.moex.gov.tw/ct.asp?xItem=8988&ctNode=2156>.

¹³⁵ See *infra* Table 2.

¹³⁶ See *id.*

¹³⁷ See *id.*

legal education and the prosperity of schools that prepare students for the bar and judicial examinations.¹³⁸ Tables 2 and 3 show the passage rates of the Bar and Judicial examinations.

TABLE 2: NUMBERS OF BAR EXAMINATIONS APPLICANTS AND PASSAGE RATES¹³⁹

Years	Number of Applicants	Actual Takers of the Examinations	Number of Applicants Passed	Passage Rates
2004	7061	4964	399	8.04
2003	6727	4799	388	8.09
2002	6340	4623	359	7.77
2001	6424	4616	326	7.06
2000	6565	4395	264	6.01
1999	6009	4064	564	13.88
1998	5714	4129	231	5.59
1997	5440	3915	265	6.77
1996	5202	4151	293	7.06
1995	5173	3758	287	7.64
1994	5108	3803	215	5.65
1993	4695	3700	563	15.22
1992	4223	3296	349	10.59
1991	3977	3258	363	11.14
1990	3472	2801	290	10.35
1989	2698	2048	288	14.06
1988	2644	2142	16	0.75
1987	2292	1842	100	5.43
1986	2201	1742	29	1.66
1985	2208	1675	24	2.42
1984	2143	1773	50	2.82
1983	2088	1676	44	2.63

¹³⁸ See, e.g., Law Service Network, <http://www.license.com.tw/lawyer> (last visited Mar. 21, 2006).

¹³⁹ This information was compiled by the author's assistant, Mr. Yang Yue-ping, combining Examination Statistics of the Republic of China published by the Ministry of Examination under Examination Yuan and information published by the Ministry of Education, at Ministry of Examination, Statistics on 2005 Qualification Screening Exams, <http://www.moex.gov.tw/lp.asp?CtNode=2137&CtUnit=295&BaseDSD=2&nowPage=1&pagesize=50> (last visited Mar. 21, 2006).

Years	Number of Applicants	Actual Takers of the Examinations	Number of Applicants Passed	Passage Rates
1982	2086	1786	6	0.34
1981	1419	1182	50	4.13
1980	1203	970	27	2.73
1979	1337	1064	26	2.44
1978	1134	903	24	2.66
1977	1181	932	7	0.75
1976	1237	984	12	1.22
1975	1095	869	22	2.53
1974	1182	963	22	2.28
1973	1459	1149	10	0.87
1972	1239	952	25	2.63
1971	1087	826	29	3.75
1970	1285	992	8	0.81
1969	973	805	13	1.61
1968	273	226	28	12.39
1967	240	192	9	4.69
1966	374	319	5	1.57
1965	386	331	6	1.81
1964	216	184	28	15.22
1963	413	349	4	1.15
1962	415	350	4	1.14
1961	385	298	11	3.69
1960	842	694	17	2.45
1959	626	551	34	6.17
1958	186	154	13	8.44
1957	180	146	29	19.86
1956	74	64	8	12.5
1955	53	47	9	19.15
1954	39	35	7	20.00
1953	68	57	4	7.02
1952	42	37	5	13.51
1951	41	32	6	18.75
1950	25	22	11	50.00

TABLE 3: NUMBERS OF JUDICIAL EXAMINATIONS APPLICANTS AND PASSAGE RATES¹⁴⁰

Years	Number of Applicants	Actual Takers of the Examinations	Number of Applicants Passed	Passage Rates
2004	5666	3897	121	3.10
2003	5072	3587	98	2.73
2002	5267	3832	132	3.44
2001	5133	3793	124	3.27
2000(ii)	4524	3606	98	2.71
2000(i)	4703	3156	91	2.88
1999	5220	3991	185	4.64
1998	5170	4185	125	2.99
1997	4881	3732	173	4.64
1996	8038	6211	174	2.80
1995	4327	3510	150	4.27
1994	3720	3023	120	3.97
1993	3662	3094	141	4.56
1992	3624	3085	99	3.21
1991	3562	3018	123	4.08
1990	2966	2574	120	4.66

The types of questions posed on the examination are also problematic. There are no multiple-choice questions on the exams, only essay questions.¹⁴¹ Many of them require nothing more than memorization of specific opinions expressed in judicial decisions or textbooks.¹⁴² In order to pass the exams, test-takers must

¹⁴⁰ This information was compiled by the author's assistant, Mr. Yang Yue-ping, combining Examination Statistics of the Republic of China published by the Ministry of Examination under Examination Yuan and information published by the Ministry of Education, at Ministry of Examination, Statistics on 2005 Civil Personnel Exam, <http://www.moex.gov.tw/lp.asp?CtNode=1783&CtUnit=268&BaseDSD=2> (last visited Mar. 21, 2006). There are no statistics available to identify the respective numbers and passage rates for judicial examinations before 1990.

¹⁴¹ For sample examination questions, see Ministry of Examination, Explaining the Function of Exam Question and Answers, <http://www.moex.gov.tw/ct.asp?xItem=2004&CtNode=1309> (last visited Mar. 21, 2006).

¹⁴² For example, two of the questions on the 2005 bar examination were: "Please explain the ways that the Grand Justices of Judicial Yuan, Members of Control Yuan and Members of Examination Yuan are nominated" and "Please explain

memorize an excessive amount of materials and take care not to offend exam readers.¹⁴³

Many students attend schools outside the university that prepare them for the bar and judicial examinations.¹⁴⁴ Such schools offer effective methods of developing the necessary techniques and provide useful materials in order to help pass the exam. Consequently, many third- and fourth-year students attend prep school classes rather than law school courses.¹⁴⁵ Some of the first- and second-year students also go to prep schools.¹⁴⁶ In response, some professors prefer to reduce the standards or requirements in the regular classes in order to attract students.¹⁴⁷

The unfortunate truth is that prep schools do not provide an adequate legal education. Education is different from training, which only involves the repetition of what others have already known. Prep schools focus purely on training and, therefore, do not allow students to think through and analyze different legal issues. Thus, prep schools are not a replacement for the legal education provided in law schools.

IV. THE NEED FOR REFORM

A. THE CHANGING WORLD

One of the biggest influences in the twentieth century was globalization, and the twenty-first century has yet to bring this

the ways that the Presidents of Judicial Yuan, Control Yuan and Examination Yuan are nominated." Ministry of Examination, An Online Review of Examination Questions, http://www.moex.gov.tw/qanda/qanda_3.htm (last visited Mar. 21, 2006).

¹⁴³ Applicants frequently worry about whether the examination readers think their views are "correct." See Law Service Network, Career Section, Questions and Issues on the Bar, Judges and Prosecutor Examinations, Judges and Prosecutors, <http://www.license.com.tw/lawyer/career/lawyer-3.shtml> (last visited Mar. 21, 2006).

¹⁴⁴ One bar preparation school even claims that the test takers with the top three scores on the 2005 bar examination attended its program. See Law Service Network, <http://www.license.com.tw/lawyer/> (last visited Mar. 21, 2006).

¹⁴⁵ Tsung Mei-hui, *Elitism: Law Community Makes Plans to Establish Law Schools, Prosecutor Reform Committee*, Nov. 21, 2005, http://www.pra-tw.org/News_Content.aspx?news_id=790.

¹⁴⁶ Some of the author's students told him that some first and second year students who do not attend class regularly were in fact going to the preparation schools.

¹⁴⁷ Some of the author's colleagues mentioned to him that students will not take selective courses if the grades given are too rigid.

force to a halt. Although the future of globalization is uncertain, it continues to affect us on many levels and in many aspects of our lives.

International transactions between countries and between private parties have increased alongside the expansion of globalization, and, as a result, lawyers must be well informed about the international and transnational laws that govern such transactions and international relations in general.¹⁴⁸ These laws and rules deeply affect us both directly and indirectly, and neither the legal profession nor those in education can afford to ignore this fact.

Under the torrent of globalization, a single, isolated event can have immediate effects on a global scale. Different legal systems interact, and their laws affect one another. Similarly, as some countries reform their legal education systems, other countries can use these reforms as a model or impetus to implement the necessary changes in their own systems.

B. THE CHANGING ROLES OF STATE

The transformation of state roles can be seen from external and internal perspectives. In the past, states held absolute control over affairs within their territory.¹⁴⁹ As members of the international community, they took foreign relations into account when making decisions, but their decisions did not depend on other nations' cooperation.¹⁵⁰ The situation has changed. Today, states are bound by many international treaties that govern both their domestic and external affairs. Multilateral, regional, and bilateral trade agreements require contracting parties to carry out their domestic policies and measures with transparency.¹⁵¹ With

¹⁴⁸ To view various international and transnational laws and rules governing transactions and relations, see generally The World Trade Organization, <http://www.wto.org> (last visited Mar. 21, 2006).

¹⁴⁹ See Allen N. Sultan, *Judicial Autonomy Under International Law*, 21 U. DAYTON L. REV. 585, 614 (1996).

¹⁵⁰ For example, before the General Agreement on Tariffs and Trade of 1947 became effective, countries could basically decide how much tariffs to collect, without having to consider their multilateral obligations.

¹⁵¹ For example, Article X of the General Agreement on Tariffs and Trade requires WTO members to administer their laws and regulations in a "uniform, impartial and reasonable manner." General Agreement on Tariffs and Trade art. X, Jan. 1, 1948, T.I.A.S. No. 1700, 55 U.N.T.S. 194, 222.

respect to certain matters of common interest, unilateral state action is discouraged in favor of multilateral coordination and negotiation.¹⁵² The legal education system must adequately prepare future lawyers to operate in this realm.

The internal role of the state has also changed from a governor to a regulator and then a manager.¹⁵³ In the past, states could simply enact laws and regulations to instruct players to follow certain strict rules so as not to harm others.¹⁵⁴ As the world shrunk through globalization, states not only had to regulate players, but also had to engage them in the essential elements of a market economy: efficiency and competition.¹⁵⁵ States are now expected to provide not only appropriate regulation but also effective management of regulatory affairs.¹⁵⁶ Within this system, the role of lawyers is not merely to provide technical legal consultation. Lawyers must be able to perform their jobs in a manner that adapts to constantly shifting perspectives. Legal education should be able to provide an appropriate environment to foster lawyers with precisely this kind of aptitude.

C. THE CHANGING SOCIETY AND CHANGING PEOPLE

The impact of globalization on the role of the state has produced fundamental changes to society itself. Some changes reflect an inundation of "international" ideas. For example, the permeation of Western values and concepts has heightened respect for power and money over maintaining harmonious relationships. As human kindness no longer governs public

¹⁵² Multilateral environment agreements and trade agreements are of this kind.

¹⁵³ As a governor, states prohibit things. As a regulator, they control the rules about whether and how to regulate things. As a manager, they not only have to regulate things, but also have to make things becoming better.

¹⁵⁴ As one commentator noted, "Asian nations tended to be public law regimes, in which law was an instrument of social control imposed by those in power and known by those to whom it applied only as an arbitrary source of duties and punishment." Philip J. McConaughay, *Rethinking the Role of Law and Contracts in East-West Commercial Relationships*, 41 VA. J. INT'L L. 427, 441 (2001).

¹⁵⁵ Competition laws and policies in many countries basically serve to enhance efficiency.

¹⁵⁶ See, e.g., Richard J. Pierce, Jr., *Completing the Process of Restructuring the Electricity Market*, 40 WAKE FOREST L. REV. 451 (2005).

interactions, attorneys see far more disputes requiring their assistance than ever before.¹⁵⁷

Societal changes also reflect the relentless pressures of economic development. The style of living and the manner of doing business transformed considerably as Taiwan industrialized and commercialized.¹⁵⁸ In the past, “large families” consisting of three or more generations were an important feature of Taiwanese society.¹⁵⁹ The family head played a critical role in deciding domestic relations or disputes. Partly because of economic development, there are now fewer “large families,”¹⁶⁰ and a larger portion of disputes need to be resolved externally. The traditional ties that held people together loosened their bind on society.¹⁶¹

The large family unit is being replaced by couples that choose to have one child or no child at all.¹⁶² Young people are pampered by their parents, and, therefore, less capable or willing to work hard.¹⁶³ Many of them lack enthusiasm to pursue further study abroad.¹⁶⁴ Their goals include a high income immediately

¹⁵⁷ For information about the increasing number of lawyers in Taiwan in recent years see Kuo, *supra* note 73, at 41.

¹⁵⁸ When the author was still in middle school over than thirty years ago there were far fewer businesses in Taiwan. Generally, people did not know much about capital markets, and few paid for things with credit cards.

¹⁵⁹ See Sun Shen, *Social Effects of Economic Growth and Intellectualizing Education*, National Taiwan University Bi-Monthly Alumni Newsletter, Jan. 2006 (on file with author).

¹⁶⁰ In a speech by Lee Yuan-Tseh, the President of Academia Sinica, on “Full Participation in Education Reform” in November 1996, he also mentioned the change from large family to small family in Taiwan and its implications. See Lee Yuan-Tseh, President of Academia Sinica, Full Participation in Education Reform (Nov. 1996) <http://www.sinica.edu.tw/as/ytleee/851108.html>.

¹⁶¹ Some have expressed concerns over the decline of family values. See, e.g., Jian Jie-fung, The Beam of Light in Today’s Society: The Second Annual I Love My Family Awards Ceremony, The Church of Jesus Christ of Latter-Day Saints, Aug. 27, 2005, http://www.lds.org.tw/localnews/2006_01_01.htm.

¹⁶² See Chai Song-lin, *Understand the Change in Era and Begin Continuing Education*, TAISHAN LOVE FOR FAMILY, Oct. 2002, at 2, available at http://www.taisun.com.tw/lovefamily_17/new%20page_2.htm.

¹⁶³ *Id.*

¹⁶⁴ This phenomenon was apparent before 2003. See Huang Yi-Jing, *Taiwan Students Studying Abroad at Ten Year Low*, EPOCH TIMES, Sep. 20, 2004, available at <http://www.epochtimes.com/b5/4/9/20/n666003.htm>. It began changing in 2005 when policies were implemented to encourage students to go abroad for higher studies.

after their graduation from the university.¹⁶⁵ Within this environment, professors cannot adequately impress upon students the importance of studying hard and good discipline.¹⁶⁶ The legal education system must find a way to fill these gaps.

In the past, the old saying that “human sympathy shall be taken into account over the proper reason and the proper reason shall be taken into account over the legal provisions” played an important role in the day-to-day practice of attorneys.¹⁶⁷ But current practice follows a stricter rule of law.¹⁶⁸ On the one hand, this development is a positive one because it produces predictable outcomes. On the other hand, people rely too heavily on legal procedures to solve their disputes and discard compassion in the process. Legal education should be designed to integrate compassion with law to mitigate the risk of legal provisions being enforced in isolation from human sympathy.

D. RAPID DEVELOPMENT AND ADVANCING TECHNOLOGY

Technological advancements and globalization tend to coincide with each other. However, innovations in technology have given rise to their own set of issues, many of which concern the regulation of such rapid development. Examples include the promotion of innovation through law, the regulation of technological development and use, utilizing technology to enforce the law or prevent its violation, criminal use of technology to hinder law enforcement, private rights created by the technology, and ethical issues raised by new advancements.

See Shan Jui-yuan, *Last Year's Students Going Abroad Comes to a Fifty-five Years High*, TAIWANUS.NET, Mar. 2, 2006, <http://taiwanus.net/news/shownews.php?id=22147>.

¹⁶⁵ Lan Li-juan, *New Generation of Privileged Students Staying True to Themselves*, CHEERS, Nov. 2000, available at <http://www.cheers.com.tw/special/001101/report-2.htm>.

¹⁶⁶ Based upon the author's experience, continuously reminding students to study harder does generate a positive effect, but there must be a system in place to enhance this.

¹⁶⁷ Lin Cheng-Chen, *Notes on the First Conference on the Interaction Between Traditional Chinese Culture and Modern Values*, NEWSL. FOR RES. IN CHINESE STUD. (Center for Chinese Studies, Taipei, Taiwan), Feb. 2001, at 79, 79, available at http://ccs.ncl.edu.tw/Newsletter_77/79-82.pdf.

¹⁶⁸ Thus, there is tension between law and human sympathy. See *id.*

The need for law schools to participate in the discussion of these issues is met with a relative paucity of information and qualified professors, most of whom lack both knowledge and the necessary backgrounds to be considered experts. Legal education must cultivate this field of law if Taiwan intends to remain competitive on a global scale.

E. FIERCELY COMPETING COUNTRIES

Many countries are striving to compete in a changed world. One apparent aspect of the transforming world is that countries train their lawyers to become capable of engaging in international matters to provide protections for their public and private sectors; they also wish to establish a reputation for excellence in the international community.¹⁶⁹ This competition has also made review of the current legal education system in Taiwan necessary. The country must determine whether the system is ready or able to accommodate globalization, technology, and economic advances, as well as social change. If the system is unprepared for these trends, it should be adjusted accordingly.

V. LAGGING BEHIND: THE GAP BETWEEN CURRENT LEGAL EDUCATION AND THE IDEAL

There are some problems common to many countries' legal education systems. Each system must cope with globalization, economic and technological developments, and social changes. Each country must consider how to produce highly skilled law professionals more effectively. The situation is no different for Taiwan, yet the international competition it faces is compounded by the country's small size. The production of quality lawyers is more urgent, and the antiquated system must evolve to meet that urgency.

¹⁶⁹ For example, fostering international lawyers is now one of the objectives for Korean legal education. See Soogeun Oh, *Globalization in Legal Education of Korea* (unpublished manuscript), available at <http://www.aals.org/international2004/Papers/Oh.pdf>.

A. THE NEED FOR SKILLED LAWYERS: COPING WITH GLOBALIZATION AND INTERNATIONAL COMPETITION

There are roughly eleven thousand lawyers registered in different district courts in Taiwan.¹⁷⁰ Compared to the population of Taiwan, which is about 22.7 million,¹⁷¹ lawyers represent a small class of professionals. There is no firm data on the number of lawyers needed in Taiwan to provide adequate legal services. However, law firms that offer international legal services are quite limited in number.¹⁷² Furthermore, many of the law firms that handle international legal matters employ foreign lawyers.¹⁷³ National support in these firms comes from local attorneys who earned their advanced degrees in foreign countries, primarily the United States.¹⁷⁴ Such a powerful foreign influence indicates that the local legal education system fails to produce lawyers capable of dealing with international matters without external support. The legal education system must improve its ability to produce students who can better serve local businesses and people involved in international matters.

In other words, legal education must be on par with international competition. The nature of international competition requires a certain level of competence in the "international language," as well as an understanding of different cultures. Lawyers must be knowledgeable about relevant international norms and regulations, including basic international economic and trade rules.

In many respects, legal systems respect the same principles and promulgate similar substantive law. For instance, the concept of due process is now a universal standard, although it was

¹⁷⁰ This figure was compiled by the author's assistant Mr. Yang Yue-ping, from information provided to him by the various bar associations in Taiwan.

¹⁷¹ Ministry of Interior, Household Registration Affairs, <http://www.moi.gov.tw/outline2006/home1.html> (last visited Mar. 21, 2006).

¹⁷² Based on the observations of the author serving as an expert witness in international arbitration cases, some local law firms do provide international legal services, but they almost always have to cooperate with international law firms if the cases are big; their role in handling cases is relatively limited.

¹⁷³ See, e.g., Winkler Partners, Legal Staff, <http://www.winklerpartners.com/index.htm> (follow "Lawyers" hyperlink) (last visited Mar. 21, 2006).

¹⁷⁴ See, e.g., Lee & Li, <http://www.leeandli.com/engweb/tradition.htm> (follow "Our Experts" hyperlink) (last visited Mar. 21, 2006).

first developed in the United States. Additionally, different countries have influenced each other in their approach to securities law. Particularly when a new system or mechanism is introduced in the United States, there are always some countries that consider, or actually do follow, U.S. practices.¹⁷⁵ Yet another example is the gradual convergence of many Anglo-American and continental European norms.

However, legal systems also diverge in many areas of law, especially in the protection of local culture, and in intellectual property.¹⁷⁶ Future Taiwanese law students need to know foreign law and future developments in conjunction with their local laws and regulation.

B. THE NEED FOR STUDENTS TO THINK INDEPENDENTLY AND RESPOND TO NEW ISSUES

Due to the interaction between globalization and developments in economics, technology, and society, legal relations have become more complicated. In order to deal with complicated legal issues, lawyers must have a broad base of knowledge and think independently. If attorneys are not trained to analyze complex problems and reason effectively, the complicated, important matters will not be dealt with appropriately.

C. LAWYERS NEED TO LEAD, NOT JUST FOLLOW

No matter how the world changes, attorneys will invariably play a vital role in shaping and leading the society. In Taiwan, for example, many political leaders and leaders in other fields have their law degrees.¹⁷⁷ This trend will likely continue into the

¹⁷⁵ For example, U.S. securities law greatly influences the law in Taiwan. See Su Xiuling, *Reviews and Suggestions for Taiwan's Disgorgement System*, SEC. & FUTURES MONTHLY, Mar. 16, 2005, at 27, available at <http://www.sfb.gov.tw/reference/magazine/9403/ss2a.doc>.

¹⁷⁶ See Chu Hui-Liang, *Reviewing Taiwan's Cultural Policy*, NAT'L POL'Y FOUND., Feb. 10, 2004, available at <http://www.npf.org.tw/PUBLICATION/EC/093/EC-R-093-001.htm>.

¹⁷⁷ See *supra* notes 31-38 and accompanying text.

future.¹⁷⁸ Thus legal education greatly influences the development of a country and its society. The legal education system should then be designed to teach more than technicalities of law and legal process. The system should train students to lead society in a better direction. Legal education must reflect the common social values, and foster students who are attentive to society and humanity, not just self-interest.

D. THE NEED FOR EFFECTIVE LEGAL EDUCATION

Although the traditional method of training lawyers in Taiwan has produced many good law professors and lawyers, it contains several shortcomings that need to be addressed before the system can work effectively. One major problem is the remuneration system, which does not differentiate between good and average professors.¹⁷⁹ As a result, there are not enough resources to recruit quality professors. A second problem is the current system's failure to recognize the importance of practical training and legal clinics. Another issue is the system's inability to retain students until completion of their degrees. Too many students are drawn to the test-taking skills training offered by bar preparation schools, and the profession suffers from the lack of sophistication among its members.¹⁸⁰ The problem is exacerbated by the fact that law departments admit high school students into their programs.¹⁸¹ Legal education should provide broad-based knowledge with a humanist perspective. Unfortunately, there is no systematic approach that requires students to pursue this type of education or learn about the values of humanism. Finally, the legal education system needs to be able to determine which institutions are capable of providing an appropriate education, and which institutions are no longer able to do so. In order to make this determination, however, Taiwan needs to establish a nation-

¹⁷⁸ Taiwan's next president will likely be a graduate of College of Law of National Taiwan University, since most of the candidates that have emerged thus far are alumni.

¹⁷⁹ The author has participated in discussions regarding the establishment of rules to grant more favorable pay to professors with better academic credentials. The rules are to go into effect in late 2006. Prior to that, there had been no such differentiation in the pay for professors at the same level.

¹⁸⁰ See *supra* notes 145-46 and accompanying text.

¹⁸¹ See *supra* note 8 and accompanying text.

wide accreditation system to determine each school's capability in providing the highest quality of legal education.

VI. INCREMENTAL APPROACH

There are two potential approaches to legal education reform. The first is the incremental approach. Under this approach, legal education reform would be composed of a number of elements which have the potential to narrow the gap between the current and ideal legal education system. The following elements should be taken into consideration when deciding on the direction of the reform.

A. CHANGING THE TEACHING METHOD

Lecture is still the main method of teaching at law departments. Professors usually present doctrinal and dogmatic materials and rules, and there is very little interaction with the students in their teaching. Failure to engage students in the classroom not only affects students' attitude toward the course but also frustrates the development of independent thinking and reasoning skills.¹⁸²

An appropriate teaching method encourages students to exercise and strengthen their analytical skills. Among the many teaching methods that are conducive to developing these skills, the effectiveness of each method depends on the type and topic of course being taught. For instance, some courses might be better taught through a more doctrinal approach, while other topics may demand a mixed method approach consisting of lectures and a question-answer process. Still other topics may require that the course be taught by analyzing fact-based questions, or through simulation. Whatever the method, it should be able to condition students to think like a lawyer.

¹⁸² Hard-working students sit in the classroom busily taking note or keying in the lectures into their computers. Lazier students seem to avoid attending classes or sit in the classroom, relaxed and without taking notes. They sometimes borrow notes from other students. They do not appear to think very much, nor do they need to think.

B. CHANGING CURRICULUM AND TEACHING MATERIALS

The current curricula in most law departments are arranged according to the structures of the legal codes. For example, in order to learn the Civil Code, students must take General Principles of Civil Code, General Principles of Obligations Part of the Civil Code, Types of Obligations in the Civil Code, Property and the Civil Code, Family Law and the Civil Code, and the Succession Part of the Civil Code. These subjects are taught in an order that mirrors the structure and sequence of the Code. Thus, Civil Code is taught over several courses and in piecemeal fashion.

To strengthen the core curriculum, courses covering a single area of law should be integrated. This would reduce the number of required courses and help students understand the essence of an area of law in a swifter and more effective manner.

As previously discussed, legal education should provide broad-based knowledge that incorporates an understanding of humanism. Thus, it is important to both encourage and require students to take courses in subjects other than law. It is also important to introduce interdisciplinary subjects into the law departments with the purpose of shaping students into lawyer who are concerned with fundamental values.

Teaching materials must also be changed to operate in coordination with the change of curriculum. Developing new teaching materials for the integrated courses and the fact-based questions and simulations should be of great importance. Given the urgent need to make students more capable of handling cases independently, comprehensive practical training should also be incorporated into the curriculum.

Finally, teaching materials must reflect these proposed curriculum reforms. Developing materials for the clinical programs, as well as the newly integrated subjects taught under appropriate instruction methods, is of great importance if the reforms are to be successfully implemented.

C. ADOPTING AN ACCREDITATION SYSTEM

There are more than thirty universities in Taiwan with law departments,¹⁸³ but many of these departments do not have enough educational resources in terms of well-trained professors, libraries, and funding.¹⁸⁴ This problem stems in part from the absence of an accreditation system, which could ensure the basic quality of education in Taiwan.¹⁸⁵

In this regard, the American Bar Association (ABA) provides a model for established an accreditation system in Taiwan. In order to ensure that each U.S. law school meets certain minimum standards, the ABA looks at the following factors: general purpose of the legal education, organization and administration, curriculum, faculty, admissions policy, library and information resources, and facilities.¹⁸⁶ Based on this review, the ABA decides whether to accredit the law school. This process ensures that approved law schools provide an opportunity for its students to study in a diverse educational environment and protects the interests of the public, law students, and the profession.¹⁸⁷ The accredited schools must provide an educational program that ensures that its graduates:

- (1) Understand their ethical responsibilities as representatives of clients, officers of the courts, and public citizens responsible for the quality and availability of justice;
- (2) Receive basic education through a curriculum that develops: (i) understanding of the theory, philosophy, role,

¹⁸³ See sources cited *supra* note 49.

¹⁸⁴ For example, the Graduate Institute of Economic Law of Southern Taiwan University of Technology has only four full-time faculty members, including one associate professor and three assistant professors. Southern Taiwan University of Technology, Graduate Institute of Economic Law: Faculty, <http://reg.aca.ntu.edu.tw/college/search/gradshow.asp?gid=089019> (last visited Mar. 21, 2006). Department of Law of Hsuan Chuang University has only seven full time faculty members. Department of Law of Hsuan Chuang University, Faculty, <http://reg.aca.ntu.edu.tw/college/search/gradshow.asp?gid=058005> (last visited Mar. 21, 2006).

¹⁸⁵ See Lo, *supra* note 125. An accreditation system for engineering schools has already been established in Taiwan. See Institute of Engineering Education Taiwan, <http://www.ieet.org.tw/english/main/index.htm> (last visited Mar. 21, 2006).

¹⁸⁶ See THE AMERICAN BAR ASSOCIATION, 2005-2006 ABA STANDARDS FOR APPROVAL OF LAW SCHOOLS 1-3 (2005), available at <http://www.abanet.org/legaled/standards/2005-2006standardsbook.pdf>.

¹⁸⁷ *Id.* at viii.

and ramifications of the law and its institutions; (ii) skills of legal analysis, reasoning, and problem solving; oral and written communication; legal research; and other fundamental skills necessary to participate effectively in the legal profession; (iii) understanding of the basic principles of public and private law; and

(3) Understand the law as a public profession calling for performance of pro bono legal services.¹⁸⁸

An accreditation system similar to the one carried out by the ABA would ensure that universities and law departments provide a certain standard of quality education.

D. REFORMING PREPARATION FOR THE BAR AND JUDICIAL EXAMINATIONS

Students prefer bar preparation schools to law departments because most departments do not teach effective examination-taking skills. These skills are necessary for two reasons. First, the passage rates for bar and judicial examinations are very low and thus the students need the skills to engage in highly competitive examination.¹⁸⁹ Second, examination questions are formulated to require extensive memorization of particular professors' views and judicial decisions.¹⁹⁰ Gathering and synthesizing certain materials is important and bar preparation schools provide these services.

One way to attract students back to law schools is to provide some examination preparation skills at the university. This may increase the passage rates for bar exam. Of course, equipping students with more practical legal skills would also improve the situation.

¹⁸⁸ *Id.*

¹⁸⁹ See *supra* Table 2.

¹⁹⁰ See *supra* note 142 and accompanying text.

VII. LOOKING FOR A ONE-SHOT TOTAL SOLUTION: SOME CONCLUDING REMARKS

During the past two decades, the society of Taiwan has changed in many respects. The political environment is more liberal and more democratic. The economy has seen increased development. Taiwan is engaging more in international competition by exporting its products and capital to foreign countries and importing more products and services into its market. Unfortunately, current legal education fails to produce lawyers equipped to meet the needs of Taiwan's dynamic political and economic systems

Although the incremental approach would help improve the system of legal education, this approach has its fatal shortcomings. First, there is no complete mechanism to change the fact that students enter law departments straight from high school and without knowledge in other fields. Educators can only ask students to work harder to acquire additional knowledge. It is not likely that a broader educational background will become a prerequisite for graduation unless there is a fundamental change on the legal education system. Second, law department professors would resist changing their teaching methods and materials without fundamental systemic change. Third, again without fundamental reform, it is unlikely that recruitment procedures for professors will change. Changes in the procedure are particularly important to recruit professors with experience in practicing law in order to develop a strong clinical program.

There have been no significant changes made to the legal education system since it began nearly eighty years ago, and the resulting decline in the competitiveness of our law students is apparent.¹⁹¹ An increasing number of foreign lawyers represent local companies in arbitrations and mediations with foreign companies.¹⁹² Local lawyers are viewed as unable to provide appropriate protections for domestic companies in transactions with foreign companies.¹⁹³

¹⁹¹ For a discussion on lawyers trained in the U.S. providing international services in Taiwan instead of locally trained lawyers, see *supra* notes 172-74 and accompanying text.

¹⁹² *Id.*

¹⁹³ *Id.*

Additionally, new social problems and technological developments raise new legal issues. New fields of law, like bio-ethics, demand the attention of a significant number of lawyers with backgrounds in other area along with law. The legal education system needs to reflect such development.

In summary, the current problems of the legal education in Taiwan are as follows:

- There are too many law departments and law colleges, a situation which has resulted in a lack of resources to recruit sufficient numbers of skilled professors. The students, in turn, are shorted on their quality of education. There is a real concern about the standard of education at many law departments and colleges.
- Students are very young when they enter law departments. Their youth often prevents them from easily understanding the essence of law and complicated social affairs.
- Current legal education is not properly linked with the judicial system. There is a general lack of courses on legal training proper practical courses and exams focus on material unrelated to real world issues. Consequently, students are unprepared to effectively represent clients when they enter into the legal service market.
- Current legal education is unresponsive to the economic and technological developments, making students less competitive at the international level.
- The national government does not sufficiently fund legal education.
- The lecture method of teaching fails to develop students' independent thinking or analytical skills.
- There are too many mandatory classes and too few interdisciplinary courses, which offer students a comprehensive look at the legal system and how it operates.

In Taiwan, there have been discussions on reforming the legal education system, especially since Japan reformed its system in April 2004. Many people in Taiwan hope that a new legal education system can develop in the near future to resolve the above issues that plague the current system. In any event, comprehensive reform of the legal education system is the only way to supplant the ox cart with an effective and efficient motor vehicle.

In terms of the appropriate model for reform, there are several options to consider. One possibility is to replace the current system with a J.D.-like system as seen in the United States. An alternative to a systematic changeover is to adopt a dual system as Japan did in their reforms. Under this model, Taiwan would introduce the J.D. system alongside the current system as well as policy governing the relationship between the two systems. Another option is to follow the German system with certain modifications.¹⁹⁴ Deeper analysis on the benefits and disadvantages of the different systems is required before deciding which to use as a model for reform in Taiwan.

It is our hope that legal education reform will increase the number and quality of lawyers. Taiwan needs a legal education system that trains lawyers to think independently and to effectively respond to new issues involving international law. It also needs a system that is capable of adjusting to the issues arising from globalization, and of producing experts on innovative areas of law. Taiwan's future as a competitive player in the international arena largely depends on whether it will succeed in making the necessary systemic changes in legal education.

¹⁹⁴ See generally Stefan Koriath, *Legal Education in Germany Today*, 24 WIS. INT'L. L.J. 85 (2006).

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