

China's Legal Education Reform Based on the Demand of the Professional Market¹

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I. Introduction

There is a gap between legal education and the legal profession market in China. Encouraged by the “Rule of Law”, which was put forward at the 15th National Congress of the CPC in 1997, China expanded its education to meet the high demand for legal professions, building 106 law schools by 1989, 292 by 2001, and 559 by 2005. At present, there are approximately 650 universities offering law majors. However, in recent years, the employment rate of law majors continues to be low, and many law graduates have fallen into the dilemma of “unemployment upon graduation”. According to the Chinese 4-Year College Graduates’ Employment Annual Report (2019) released by MyCOS Institute, law majors’ employment rate was the lowest in 2016, 2017, and 2018, with 84.9%, 85.3%, and 85.1% respectively³. Despite this, the job market is far from saturated with legal talents. The reason for this contradiction is that the traditional legal education model has its drawbacks, which can no longer meet the demand for talents in the legal career market.

The gap between legal education and the market was not wide before. China reinstated the GaoKao (National College Entrance Examination) in 1977 after a decade-long Cultural Revolution. This marked the beginning of the recovery period of China’s legal education. By 1985, law schools that

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³ See WANG BOQING & CHEN YONGHONG, CHINESE 4-YEAR COLLEGE GRADUATES’ EMPLOYMENT ANNUAL REPORT 10 (2019).

had been closed were completely restored. At that time, China needed to construct the state's political-legal organs, and so popularized legal knowledge and substantive law were taught in schools⁴. As a result, many law graduates ended up in courts, procuratorates, and government agencies. The supply and demand of talents in this period were balanced. From 1986 to 2001, China's market economy developed rapidly. Legal education began to serve the economy, and other professions such as lawyers and law teachers began to emerge. The gap between legal education and market demand has appeared at this time, but it was relatively small.

However, since China joined the WTO in 2001, the gap has widened. The legal labor market began to change, and legal education began to serve the domestic and international markets' specialized roles. Nevertheless, legal education still focused on legal knowledge and neglected practical skills. So in 2000, seven universities, including Peking University, Tsinghua University, and Renmin University of China, began to offer clinical legal education courses that were modeled based on the American education system. To improve the quality of legal practitioners, the national judicial qualification examination was implemented in 2002. Despite these reforms, the gap between legal education and market development remains wide.

In recent years, globalization has had a profound impact on legal practice, education, and research⁵. And the development of science and technology has also enabled simple, repetitive, and mechanical legal services to be replaced by artificial intelligence (AI). These new social developments place higher demands on the quality of legal practitioners. It is necessary to reform legal education. Otherwise, the gap with the market will only widen and the employment of law graduates will become more difficult.

To close the gap between the supply of legal talents and labor demand,

⁴ See SONG Ting, *On Legal Education in Universities Since the Founding of PRC* (May 5, 2013) (unpublished Ph.D. dissertation, Nankai University) (on file with CNKI.NET). "Law schools popularize legal common sense so that students can understand and abide by the law."

⁵ See Thomas Duve, *Transnationalization of Law and Legal Scholarship: Intellectual and Institutional Challenges*, 44 Int'l J. Legal Info. 28 (2016).

legal education in China must emphasize compound knowledge and creative thinking to equip graduates with the skills to solve complex social problems in a world of globalization and technology.

II. An Overview of China's Legal Education Reform in 2018

1. From General Legal Education to Vocational Legal Education

Legal vocational education (as opposed to academic and general education) has been a consensus since the reform of legal education began in 2018. In April 2018, the Ministry of Education issued the national standards for the teaching quality of undergraduate law majors: the total credits of the training program for law majors should be controlled at about 160 credits, among which the accumulated credits for practical teaching should not be less than 15% of the total credits. It made clear that the vocational education of law has strong applicability and practicality. In October that same year, the government launched the education and training plan 2.0 for outstanding legal talents in the next five years, which strengthened the practical education of law, and required compulsory courses such as "legal professional ethics".

2. The Reform of Judicial Examination Challenges Legal Education

China's judicial examination was first implemented in 2002. Over the past 16 years since the first examination, more than 6.19 million people have applied, but only 888,000 people have passed—a mere passing rate of 14.3 percent. The judicial examination did not require a law degree, so people without formal legal training could pass the exam through rote memorization. This led to many unprofessional lawyers, so in 2018, China replaced this with the legal professional qualification examination under the reform, a law degree was required for people who entered university after 2018.

The 2018 reform posed a challenge to legal education. The new exam set up the exam's subjective part independently, focusing on students' ability of legal thinking, case analysis, writing, and argumentation. This inevitably leads to legal education to take corresponding countermeasures and strengthen the cultivation of law application ability. If legal education is not reformed following the legal professional qualification examination,

the gap between legal education and market demand will be even more significant.

III. China's Labor Demand in the Legal Sector

1. Types of Labor Demand

What kind of talents are needed in China's legal career market?

- (1) Litigation business and non-litigation commercial lawyers. For example, in 2019, more than 1.54 million suspects in criminal cases needed defense lawyers. In 2017, the number of non-litigation businesses was 894,000, which increased to more than 1,058,000 in 2018. With the booming development of China's capital market business, more high-level corporate lawyers are needed.
- (2) High-end legal services in big cities and legal services at the grassroots level. Legal graduates in China tend to gather in big cities, so legal practitioners' distribution is extremely unbalanced that the regional differences are very obvious. By the end of 2018, more than 423,000 practicing lawyers in China, including more than 30,000 in Beijing and Guangdong, and more than 20,000 in Shanghai and other eight big cities. Meanwhile, the average number of lawyers in Gansu, Qinghai, and Jiangxi provinces was about 2,000.
- (3) China needs both the traditional "gong, jian, fa" (i.e., public security organs, procuratorates, and courts) and new types of legal personnel in the fields of administration and social management. After joining the WTO, the Chinese government urgently needs specialized legal services to formulate departmental regulations, the negotiation of foreign investment and the response to litigation affairs, etc., which is the historical opportunity for the establishment of the public sector lawyer system in China. Public sector lawyers help improve the CPC and government's ability to govern and administer affairs under the law. By May 2018, more than 8,000 party and government organs and people's organizations had set up public sector lawyers, with a total number of more than 24,000.
- (4) Domestic and foreign legal services. In the global context, the legal service industry is highly competitive. The competition for large corporate clients and lucrative business transactions is fierce and

will continue to be so, not only within the club of big Chinese corporate law firms. As a result, China particularly lacks legal professionals trained to handle negotiations in the international market, such as WTO lawyers and lawyers in transnational trade⁶.

The diversification of the legal profession's market demand determines the diversification of the objectives and methods of legal education. First, internationalization requires the cultivation of foreign-related legal talents, who are familiar with international rules and can participate in international legal affairs. Second, to solve regional differences between east and west China, it is necessary to train more legal talents at the grassroots level in west China. Third, legal practice needs to cultivate applied and compound legal professionals. It refers to legal talents who have not only professional knowledge of law, but also knowledge closely related to their major, such as economics, management, psychology, linguistics, natural science, etc. In specific practical work, a case needs to be considered comprehensively. If not, the case cannot be handled correctly. For example, in handling medical dispute cases, legal knowledge is not enough, but knowledge of medicine, pharmacology, and pathology. Dealing with patent disputes is difficult for people without a science background.

2. The Gap Between Legal Education and Legal Labor Market

At present, such a typical phenomenon exists among Chinese law students. Those students who are very outstanding in school, through their unremitting efforts, they can get multiple honors and even be recommended for postgraduate or doctoral study without taking an examination. The achievement of these results shows the process of these students' hard work in school and their high level of familiarity with theoretical knowledge⁷.

However, these results still cannot directly indicate that they have made adequate preparations for practice, nor that they have become

⁶ See LIU Tongjun, *The Three Basic Problems of Cultivating Outstanding Legal Talents in the New Era* (in Chinese), 10 *Law Science*. 137, 138 (2019).

⁷ See CHEN Wei, *From General Education of Law to Practical Education of Law: On the Reform of Law Teaching Methods*, 1 *Research on Rule of Law*. 107, 109 (2015).

qualified legal talents. For example, the work of corporate lawyers is mainly to serve the company's listing, restructuring, mergers and acquisitions, cross-border investment, financing, and other capital market businesses. During their study in law school, these practices are far away from the students' courses and lives. After entering the job market, they mainly rely on the help of their peers, resulting in the uneven level of services provided.

3. AI Technology Brings Challenges to Legal Education

With the development of science and technology, judges and prosecutors' repetitive, routine work will gradually be replaced by AI. Even the work of law professors, especially in the civil law system characterized by the doctrine of law, is likely to be replaced by AI. For example, courts in Jiangsu province have built "Cloud Court", which takes "Jiangsu legal cloud" as the carrier to realize the intelligent push of similar cases and trial data, assisting judges to handle cases. AI can not only replace ordinary legal workers to carry out basic legal information retrieval, consulting, sorting and screening, and write more standardized legal documents, but also overcome the difficulty that human beings cannot work for a long time and efficiently. The average legal worker's competitiveness in terms of working hours, work efficiency, and work quality will be significantly lower than that of AI.

The application of AI in the legal practice improves the requirements for legal practitioners. In the age of AI, an excellent way to make human legal practitioners more viable is to cultivate a "volljurist"⁸ ("fully qualified lawyer") or someone who "thinks like a lawyer"⁹. Because what cannot be replaced by AI is legal thinking and unique legal style, which contains creativity, emotion, and desire — which AI does not have. This is exactly what should be passed on to students in legal education.

⁸ See Annette Keilmann, *The Einheitsjurist: A German Phenomenon*, 7 German L.J. 293 (2006).

⁹ See Kurt M. Saunders & Linda Levine, *Learning to Think Like a Lawyer*, 29 U.S.F. L. Rev. 121 (1994).

IV. China's Legal Education Reform to Meet the Labor Demand

1. Identifying the Goal of Legal Education

The majority of graduates work in legal practice or other related fields, and minorities in academic research. Of the 300,000 law undergraduates and 460,000 master's students educated in China in 2017, only 30,000 went on to pursue doctoral studies, while the rest went on to work in legal practice¹⁰. People who are directly engaged in legal practice, such as lawyers, judges, and prosecutors, as well as other jobs that require a legal background, are in greatest demand. Therefore, legal education should take legal vocational education as the primary objective.

While our goal is to close the gap between legal education and the legal profession, the obvious fact is that legal education aims not to train mature lawyers or excellent judges by law schools. Legal education cannot accomplish such a task. American legal education can be the benchmark of legal career education, but the American law industry's traditional experience is that old lawyers lead new lawyers. American lawyer training is highly professional and technical, which can only be undertaken by senior lawyers in the legal field¹¹. Law schools are not capable of completing the training. What law schools do is train students to think like lawyers.

2. Adjusting the Legal Personnel Training System

China's legal education system is a complex system based on undergraduate education. Besides, it mainly includes the other five types: the education of the dual degree (mainly intellectual property), Master of Laws (for law majors), the Juris Master (J.M., for law majors, and non-law majors), and Doctor of Laws.

The J.M. was originally designed for non-law graduates in 2000 under the influence of the Juris Doctor (J.D.) education model of American law school. The goal of the J.M. is to cultivate professional talents who are

¹⁰ See LIU Tongjun, *The Three Basic Problems of Cultivating Outstanding Legal Talents in the New Era* (in Chinese), 10 *Law Science*. 137, 137 (2019).

¹¹ See CAI Lidong & LIU Xiaolin, *The Nature and Realization of Practical Teaching of Law in the New Era*, 5 *Law and Social Development*. 93, 98 (2018).

practice-oriented, have obvious legal professional background, and possess compound knowledge and professional accomplishment. However, in practice, the teaching content and methods of the J.M. are not much different from those of the undergraduate and Master of Laws. They are still based on the traditional legal education model. Moreover, different from the American Law School Admission Test, it does not take the examination of the basic knowledge of humanities, social sciences, and natural sciences with the goal of logical thinking and comprehensive quality. Instead, it takes the law courses as the examination content, leading students to enter the law school by attending cram schools and memorizing by rote. The J.M. has strayed from its original goal.

China's situation is similar to the problems faced by pre-reform legal education model in Japan¹² and South Korea¹³. The general growth path of a legal profession in China, Japan (before the 2004 reform), and South Korea (before the 2008 reform) is as the following chart:

Country	Step 1	Step 2	Step 3
Japan	undergraduate (4 years)	National Bar Examination	training at the Legal Training and Research Institute. (1 year in 2006)
South Korea	undergraduate (4 years)	National Bar Examination (Sabubshihum)	training at the Judiciary Research and Training Institute (2 years)
China	undergraduate (4 years), or postgraduate (2 to 3 years)	Legal Professional Qualification Examination (2018)	internship at the law firm for attorneys (1 year)

Before reform, both Japan and South Korea faced similar problems, that is, legal education was divorced from legal vocational education, legal education lacked practical courses based on legal skills and professional

¹² See Peter A. Joy, Shigeo Miyagawa, Takao Suami & Charles D. Weisselberg, *Building Clinical Legal Education Programs in a Country Without a Tradition of Graduate Professional Legal Education: Japan Educational Reform as a Case Study*, 13 *Clinical L. Rev.* 417 (2006).

¹³ See Rosa Kim, *The Americanization of Legal Education in South Korea: Challenges and Opportunities*, 38 *Brook. J. Int'l L.* 49 (2012).

ethics, the passing rate of the bar examination was low, the practice training of institute mainly dominated by judicial skills, and the scale of the legal profession was small.

After reform, both Japan and South Korea set up three-year postgraduate legal education based on the J.D. education model of the United States. Graduate Law School Act of 2007 in South Korea requires universities that have established law schools not to continue to offer undergraduate programs in law.

China is a latecomer to the law, and the United States has greatly influenced its legal education. Can China, like the legal education reform in Japan and South Korea, merge entirely into a J.D. model of postgraduate education? In my opinion, it is difficult to achieve in reality and will lead to a waste of resources. Japan and South Korea have focused more on international and global considerations than on domestic ones, leaving most law school graduates clustered in big cities and struggling to find work. In contrast, legal services in rural and remote areas have remained largely unchanged. In China's legal labor market, considering the cultivation of legal talents for the remote and poor western grass-roots areas, the undergraduate education of law is still necessary at the present stage.

The breakthrough of China's legal education reform lies in the J.M. program. Japan and South Korea have also focused their reforms on graduate-level law schools. China can gradually combine the three master's degrees into one master of law program. The research-oriented Master of Laws can be gradually transformed into the practice-oriented J.M. program. The training of academic talents should be mainly put in the phase of doctoral study. Therefore, after graduating from the undergraduate education in law or non-law majors, students can choose the training path of practical talents and research talents respectively through the J.M. or doctor of law. Of course, this training system has to undergo further research and pilot tests.

3. Innovating the Teaching Model and Method

In order to train the applied and compound legal talents, the teaching model and method should be innovated.

First, China can introduce case discussions to cultivate students'

problem-solving abilities. Traditional teaching methods are didactic, and as a result, students aren't taught to think independently. This makes it difficult to apply their knowledge to solve real-world problems. The Langdell Case Method is the mainstream teaching method in American law schools. Inspired by the teacher's questions, they discuss various practical problems in the legal world through the dialogue between teachers and students. Harvard began its legal education reform based on the Langdell Case Method in 2006. After the reform, half of Harvard law school's curriculum was non-lectured. A total of 111 courses, or 39.5 percent of the total, were designed to guide students through research-based learning, including Seminar, Reading Group, Workshop, Legal Clinic, and Problem and Theories¹⁴. The Langdell Case Method and Harvard's experience can provide ideas for the reform of traditional teaching methods in China. Based on lecture-style teaching, teachers can strengthen the interaction with students employing problem discussion, guide students to carry out a research study, and cultivate independent thinking ability.

In addition to classroom teaching, off-class practice teaching should be added to cultivate students' practice skills and professional ethics. Examples of off-class teaching:

- (1) Legal Clinic: The closest approach to reality is the legal clinic, but its effectiveness in China remains to be seen. It follows the practice of medical students in clinical practice at medical clinics. Under the guidance of teachers, law students "diagnose" their legal problems and prescribe them. On the one hand, it provides legal advice to those in difficulties and urgent need of legal aid. On the other hand, it promotes students' in-depth understanding of legal theories¹⁵. Its advantage lies in the cultivation of law students' legal professional skills and professional ethics consciousness, to realize the unification of legal theory and legal practice.

¹⁴ See WANG Xigen, *Analysis About The Latest Reform Of American Legal Education And Its Enlightenment To China*, 1 Law Science Magazine. 33, 35 (2010).

¹⁵ See Stephen Wizner, *The Law School Clinic: Legal Education in the Interests of Justice*, 70 Fordham L. Rev. 1929 (2002).

- (2) Moot court: China's moot court is an important method of practical teaching of law. It simulates criminal, civil, administrative, and arbitration processes through case analysis, role division, legal document preparation, rehearsal, and formal court session. 2019 is the ninth year that China has held the national moot court competition for college students. The advantage is to help students feel the process of court debate; the disadvantage is not universal, a small number of students can gain experience.
- (3) Internship: A graduate internship is a required course for the fourth year of law school, and students are required to spend two months at a court or procuratorate or law firm. This is the most essential vocational training that China should develop in its legal education tradition. However, in reality, graduation internships become a formality, as most students are busy writing their graduation thesis, looking for a job, or taking the postgraduate entrance exam. There is a practical conflict between graduation practice and students' graduation arrangements. Coupled with the fact that most law firms require three to six months of internship before a graduate is hired, students do not think a graduate internship is necessary. Schools can take advantage of the fragmented time outside the classroom through summer internships or volunteer services to engage students in vocational training.

Legal vocational education, which aims to cultivate legal professional quality, is not an academic education focusing on the cultivation of reflective ability, nor should it be limited to the specific technology and skills of a specific legal profession such as writing documents and obtaining evidence skills. It emphasizes students' lifelong learning ability and career adaptability and provides students with lifelong survival skills, rather than a temporary employment gimmick¹⁶.

V. Conclusion

The future legal profession market will need more and more elite legal practitioners. With the help of AI, only difficult legal problems involving

¹⁶ See CAI Lidong & LIU Xiaolin, *The Nature and Realization of Practical Teaching of Law in the New Era*, 5 *Law and Social Development*. 93, 99 (2018).

multiple fields and with a high degree of complexity need to be completed by legal personnel with good legal skills and rich legal experience. This requires that the judicial examination should be designed to serve the purpose of selecting the elite of the legal profession. Therefore, legal education should focus on cultivating students' creative ability. In the future, we should not ask students to be the ones who make the least mistakes in the repeated homework. We should not just ask students how to apply the law correctly and be familiar with the rules, but more importantly, add more creativity, more integration, and more value judgment in the learning process.