

## **"The Mongolian legal education on the eve of the enhancement "**

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The rapid change in the higher education system of Mongolia over the past decade reflects several unique aspects. In part, this is due to its unique location and political history, which enable it to draw for assistance upon both the East (Japan, Korea, and the Asian Development Bank) and the West (the European Union and the United States). It is also due, in part, to the unique course Mongolia has taken with respect to the funding of higher education.

The Mongolian People's Republic was established in 1924 as the world's second communist country; the single-party government held onto power until 1990. Mongolia maintained close political and economic ties with the USSR, but was never one of its constituent republics. At the peak of this relationship, almost a third of Mongolia's GDP was provided by the Soviet Union. This included significant support (e.g., books, equipment, and the training of academics and researchers) for Mongolian higher education. The higher education system on the eve of the transition in 1990 reflected its Soviet roots: highly specialized, with only one, relatively comprehensive (arts and sciences disciplines, secondary school pedagogy, law), institution (the National University of Mongolia) existing alongside independent, specialized, university-level institutions for medicine, engineering, agriculture, pedagogy, and the arts and culture. All public institutions had student enrollments quotas set by the National Planning Board, based on anticipated demand for graduates trained in each narrowly defined specialization.

The influence of the transition process in Mongolia reflects on the higher education. Several reforms are performed in higher education system: weaken the management centralization, improvement of the independence of the state institutes;

establishment of the non-state institutes, usage of the foreign experiences, leveled education.

For the past decade, Mongolia has been undergoing a transition toward modernizing its legal system. A sound legal and judicial system and the Rule of Law creates certainty of legal rights, predictability of enforcement, encourages private investment and market based solutions for delivery of services. Reforming has been widely spread in Mongolian society involving judiciary, legislation and retraining of lawyers.

Lack of adequate in-country *legal training* adversely affects the quality level of the newly educated lawyers. Before 1990, only one law faculty of the Mongolian State University was available to train lawyers. A dozen universities throughout Russia and other Eastern European countries also educated Mongolian lawyers in the principles of the Soviet Legal System. Since 1990 the *legal profession and education* have undergone significant changes to adopt the principles of law for a market-oriented economy.

In the last ten years the number of Law Schools increased considerably. In April 2001 the Ministry of Justice and Home Affairs and Ministry of Education, Culture and Science organized a joint Inspection of all Law Schools. As the follow-up measures, “The National Standard Curriculum for Law Degree Course” was approved in July 2001 by the joint Decree of the Minister for Justice and Home Affairs and Minister for Education, Culture and Science. This standard became effective on a pilot basis from 2001-2002 academic years and it will be revised in 2004 based on the trial period findings and recommendations. With purpose to bring nearer the Mongolian higher education to the international level there is a need to carry out management policy, conduct quality assessment system. For the evaluation of the activities of the higher education institutions, Mongolia uses the American two-leveled model. The first level of it is the Accreditation committee, which has mixed structure of state and private organizations. It started accreditation from 1998 and the above-mentioned 178 institutes were accredited by it. The next level is accreditation of the curricula. It means inspection of the specified training’s documents, teaching staff, literature, teaching methodology, place and convenience of them with the standard. The whole institution is not obliged to

be involved in accreditation. The curriculum, which is considered, that complies the quality and requirements can be accredited.

Over 2000 students graduate each year from nearly 20 state and private owned Law Schools that operate in the country, whereas only 1500 jobs are available in the legal sector. Most Law School premises, their teaching staff experience, availability of necessary manuals, books and reference materials are still far from meeting the standards.

The curriculum has traditionally included general subjects such as philosophy and the theory of state, and more recently economics and sociology have been included. A computer science course has also been introduced which aims to teach not only the basic elements of how to use a computer but also how to write programs.

Courses on the theory of law are compulsory. However, there needs to be some evolution of these to deal with the market economy and related legislation. The legal theory taught should be updated and made less abstract. Civil law courses also need to be adapted to parallel developments in that sphere. Education in commercial law is still in a trial period and is basically confined to teaching the relevant chapters of the Civil Code. This is not sufficient to provide students with an understanding of the legal framework of the commercial world and will not equip them for occupations requiring knowledge of it. However, any development of new courses will require an increase in the knowledge and experience of the professors themselves.

It is evident that the principles of legal analysis are not or have not been well taught, although these are fundamental to the ability to be a good advocate, judge or, perhaps most importantly at this stage, law drafter. Courses on the analysis of legal principles and their applicability to factual situations should be included in the curriculum or be a fundamental part of courses on substantive law subjects.

Training in skills such as legal drafting, client interviewing and advising, and negotiating would undoubtedly also be of benefit. Law school teaching methodology should concentrate on developing critical and analytical thinking of law students. Particularly, it is important to develop skills in doing economic cost-benefit analysis of law and in considering different implications of a particular law on society. Briefly, it is not necessary that the law students memorize and know the provisions of law, but be able to understand the rationale behind the law.

The introduction of clinical legal education program is an invaluable part of developing law students' practical skills. It can prepare students for real legal work. And the students could provide free legal aid to indigent clients under the supervision of professors or legal practitioners.

The law schools of Mongolia face a debilitating shortage of textbooks and teaching materials. Professors usually prepare their teaching materials from a few available books in Russian and have few reference materials that could enrich the learning of students. The law libraries typically contain no more than two volumes of the book being studied in a class, and students usually read their lecture notes only. The professors themselves are very much aware of the need for updating teaching materials.

The Soros Foundation has taken palpable steps to address the above-mentioned needs. It has supported Mongolian universities' law faculties and law schools on curriculum development and the development of textbooks. A textbook competition for new textbooks in the main legal areas was announced by the Foundation in the spring of 1999. Also, the translation of up to three books on international law is being planned.

Along with this progress, legal trainers themselves should receive training in modern pedagogical methods. It is also important to organize short and long-term training, particularly in the areas of high demand such as banking, securities and other economic laws.

It is necessary to establish a viable system for professional certification. Today, law graduates take a professional certification examination to become advocates and practise law. The examination mainly tests fundamental areas of law rather than multiple areas, as it is done in Western practice. There is no system where every law student, except for those wishing to follow academic paths, is required to get a professional certification before going to work as a government attorney.

In the legal development process, legal scholarship is crucial. Inarguably, encouragement of research studies and works by the legal community contributes to the sophistication of a legal system. There are few organisations engaged in legal scholarship and research in Mongolia. A small number of law schools offer two degrees - - Master of Laws and Doctor of Jurisprudence -- that promote law teaching and scholarship. However, the candidates of these degree programs exhaust their energy in

locating research materials, and as a result produce poorly organised, insubstantial papers based on a few available textbooks and data. And in some instances, those papers are not considered significant contributions to legal scholarship but merely a shield for an advanced degree. The practice of law journal publications among law students is not popular.

There is a need to work out flexible, complete model curricula taking into consideration the government policy on legal education, international standards of the requirements to the lawyers, concepts of the “Law on qualification and selection of the law professionals” and define requirements, criteria, and tendency of specifications.

The Government of Mongolia has received a loan from the International Development Association (IDA) toward the cost of Legal and Judicial Reform Project, and intends to apply a portion of this loan to eligible payments under the sub-project “Enhancement of the legal education”.

The objective of the subproject is to design the pilot Law Schools that tend to prepare a convertible legal specialist, who can be responsive to employers’ requirements, thus an asset to the future market. In order to achieve this aim, there is a need to work out sample curriculum that will produce graduates with market economy oriented and practitioner oriented skills, compatible with international standards and appropriate to Mongolia, course standard, introduce teaching methodology and its patterns matched with the present requirements, implement new methodology, train a sufficient resource of qualified teaching personnel.

Under this subproject was established internal working group consisting of professors of the trial law schools. The working group conducted survey among the 748 lawyers on high legal education and comparative survey of the teaching program of the 14 law schools.

We invited the prospective foreign bidders to make proposals on consultancy service of abovementioned work and the consortium of consultancy firm “Justice Reform International-Canada” was chosen according to World Bank procedure to implement this work. The consultancy firm carried out inception work engaging local consultants to assist in the fieldwork. Recently the consultancy firm is working on the final report. The

subproject plans to start the trial of the reformed educational program and new curriculum at the selected law schools starting from the first term of 2004-2005 academic year.

While this scope of work is focused on curriculum design and related matters, there is a need for long – term implementation, including better management, transformed physical environment, teacher training, the right number of law degrees to be supported, better libraries, better financing through the innovation of a non-profit organization to support the law school.

International best practices will only help Mongolian legal education to the extent that they are relevant and successfully adapted to Mongolia’s circumstances.

We believe that we can find assistance to implement a positive program of change, which will position Mongolian legal educators to make a dynamic contribution to the transformation of Mongolia.

Participation in the Conference on Educating Lawyers for Transnational Challenges organizing by AALS on the role that law schools and law curricula should have in preparing tomorrow’s lawyers will be great opportunity for us.