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THE “AMERICANIZATION” OF LEGAL EDUCATION IN SOUTH KOREA: CHALLENGES AND OPPORTUNITIES

*Rosa Kim**

INTRODUCTION

In 2007, the South Korean government voted to adopt an American style three-year law school system and effected a radical change in the legal education process.¹ The event marked the end of decades of debate about how best to transform a national bar exam system that averaged below a 5 percent passage rate, yielding too few practitioners to provide affordable legal services and failing to produce professionally skilled lawyers who could be competitive in the global market.² For a country that currently vies for the title of “most wired” in the universe³ and figures prominently as a major player in the world economy, the legal education system established during the Japanese colonial period had fallen far behind these other economic and societal advances.⁴ Like other countries that have engaged in legal education reform in recent times, Korea⁵ recognized that the global legal market is headed toward standardization based on the U.S. model of legal education and training.⁶ Though ostensibly “American” in terms of style, the

* Associate Professor of Legal Writing, Suffolk University Law School. The author thanks her colleagues, Associate Professor Leigh Mello and Professor Stephanie Hartung, for their helpful comments. Thanks go also to Andrés Reyes for his valuable research assistance.

1. See Beophak jeonmun daehakwon seolchi unyeong-e gwanhan beopruyl [Graduate Law School Act], Act No. 8544, July 27, 2007, *amended by* Act No. 8852, Feb. 29, 2008 (S. Kor.).

2. DAE-KYU YOON, LAW AND DEMOCRACY IN SOUTH KOREA: DEMOCRATIC DEVELOPMENT SINCE 1987, at 134 (2010).

3. Tim Hornyak, *Getting Online in Super-Wired South Korea*, CNET (July 16, 2012, 7:37 PM), http://news.cnet.com/8301-17938_105-57473480-1/getting-online-in-super-wired-south-korea.

4. See Dai-kwon Choi, *A Legal Profession in Transformation: The Korean Experience*, in REORGANISATION AND RESISTANCE: LEGAL PROFESSIONS CONFRONT A CHANGING WORLD 171, 193–94 (William L. F. Felstiner ed., 2005).

5. All references to “Korea” in this Article are to South Korea.

6. See Stephen Zamora, *The Cultural Context of International Legal Cooperation*, 51 J. LEGAL EDUC. 462, 463 (2001). While historically, foreign legal

newly created Korean legal education system is the culmination of much national debate and compromise, reflecting the realities of Korean politics and economics, rather than a literal duplication of a foreign system.⁷

While this wholesale transformation of legal education from an “exam system” to an “education system”⁸ holds much promise for the future of Korean law, it is already facing serious challenges in the transition. In February 2012, the first class of graduates from the new three-year law schools entered the marketplace.⁹ The most immediate hurdle for the new graduates is facing a legal job market that has not yet been diversified and expanded enough to accommodate the sudden rise in the number of job seekers in the legal field, even with a quota in the number of students permitted to pass the new bar exam.¹⁰ Another major challenge of the transition is determining how best to adopt a new curricular and pedagogical approach to law teaching that may not be compatible with Korean culture. Moreover, since the old system is being phased out as the new system is being phased in, the tension between the existing bar and the new law schools and their proponents has persisted and threatens to erode public confidence in the new system.¹¹

As with any radical change on a big social scale, successful transformation of the legal education system in Korea will re-

models, especially from Europe, heavily influenced the United States, the United States has now become an exporter of legal models due to its predominance in the world economy and foreign lawyers' interest in engaging in graduate legal studies in the United States. *Id.*

7. See Tom Ginsburg, *Transforming Legal Education in Japan and Korea*, 22 PENN. ST. INT'L L. REV. 433, 439 (2004). The use of quotes in the title of this Article acknowledges the reality that Korea's reform in fact cannot be summed up in the word “Americanization” alone.

8. See Park Se-il, *The Value of American-Style Law Schools*, CHOSUN ILBO (Sept. 7, 2007), http://english.chosun.com/site/data/html_dir/2007/07/09/2007070961009.html.

9. See Yun Suh-young, *Law School Students Sing Job Blues*, KOREA TIMES (Nov. 23, 2011), <http://koreatimes.co.kr/www/news/include/print.asp?newsIdx=99420>.

10. See, e.g., *id.*; Lee Jae-min, *Bleak Job Prospects for Law Grads*, KOREA HERALD (Jan. 10, 2012), <http://view.koreaherald.com/kh/view.php?ud=20120110000695&cpv=0>.

11. Bae Ji-sook, *Controversy Escalates over Plan to Pick Law School Graduates as Prosecutors*, KOREA HERALD (Mar. 7, 2011), <http://view.koreaherald.com/kh/view.php?ud=20110307000907>; Anthony Lin, *Shaking Up the Old Order*, ASIAN LAW., June 1, 2011, at 7.

quire overcoming these and other challenges and setbacks. As difficult as the transition might be, that it is occurring at a time when American law schools are engaging in their own self-assessment and discussing possible significant changes to their system¹² creates a unique opportunity for Korea to learn from the American experience and “get it right” from the outset. By taking advantage of this opportunity and integrating key lessons from American legal education, Korea can develop a new legal education model that best suits its needs.

Part I of this Article will provide background on the history of legal education in Korea to give some context for understanding the magnitude of the reform. Part II will examine the law instituting the reform, its stated mission, and key provisions. Part III will discuss the economic, cultural, and pedagogical challenges of adopting an American-style three-year law school system. Part IV will explore the opportunities afforded by Korea’s large-scale reform to fashion a new forward-looking legal education model and will then be followed by some brief concluding remarks.

I. HISTORY OF LEGAL EDUCATION IN KOREA

Understanding the historical context of legal education in Korea is essential to appreciate the magnitude of the 2007 reform. It also offers perspective regarding the difficulty of the transition that is currently taking place.

A. *The Pre-Reform Model*

The pre-reform legal education model in Korea, which is still in place as the new system is being phased in, consists of an undergraduate education with a law concentration,¹³ “cram school” to prepare for the national bar exam,¹⁴ and two years of government-sponsored training for the small number of individuals who pass the bar so that they can become judges, prosecutors, and private practitioners.¹⁵ Considered the most difficult standardized exam one can take in Korea, the national bar exam has held an “open” process, in that an undergraduate ed-

12. See *infra* note 138.

13. YOON, *supra* note 2, at 141.

14. See description of “cram schools” *infra* note 34 and accompanying text.

15. See Kyong-Whan Ahn, *Law Reform in Korea and the Agenda of “Graduate Law School,”* 24 WIS. INT’L L.J. 223, 227 (2006).

ucation is not a requirement to take the exam, though the single-digit passage rate makes it a risky career choice.¹⁶

The small minority who pass the bar exam complete a two-year apprenticeship and training at the Judiciary Research and Training Institute ("JRTI") run by the Korean Supreme Court.¹⁷ Graduates of the JRTI receive bar licenses and are qualified to be judges, prosecutors, and private practitioners.¹⁸ The JRTI has historically emphasized training and education for judges and prosecutors, with only limited courses available for private practitioners, as the JRTI's original purpose was to train future judges and prosecutors.¹⁹ In effect, the bar exam operates as an entrance exam for the JRTI.²⁰ Training at the JRTI is primarily under the instruction of experienced judges, prosecutors, or private practitioners; teaching by university professors is minimal.²¹ In recent years, the gradual increase in the number of JRTI entrants, due to a quota increase in the number of bar passers, has changed the composition of the trainees such that the majority of JRTI graduates are now becoming private attorneys, and a minority, approximately one-fifth, judges or prosecutors.²² Thus, the JRTI's focus on education and training for judges and prosecutors has increasingly been misplaced.²³

Due to a quota system for bar passage that has strictly controlled the number of lawyers in Korea since 1949, there are relatively few lawyers per capita in Korea.²⁴ As compared to the United States, where the ratio is 1 to 300, Korea has a ratio

16. See Jasper Kim, *Socrates v. Confucius: An Analysis of South Korea's Implementation of the American Law School Model*, 10 ASIAN-PAC. L. & POL'Y J. 322, 326-27 (2009) [hereinafter Kim, *Socrates v. Confucius*]. In 2000, the total number of bar takers was 23,249, with 801 passing, indicating a 3% passage rate. *Id.* at 337.

17. See YOON, *supra* note 2, at 136-37.

18. Ahn, *supra* note 15, at 227. Until 1981, the exam was designed primarily to recruit judges and prosecutors, with a low average passage rate of 1.9% between 1949 and 1980. See Dae-Kyu Yoon, *The Paralysis of Legal Education in Korea*, in LEGAL REFORM IN KOREA 36, 37-38 (Tom Ginsburg ed., 2004).

19. YOON, *supra* note 2, at 136-37.

20. *Id.*

21. See Yoon, *supra* note 18, at 43.

22. *Id.* at 40.

23. See *id.* at 44.

24. See Matthew J. Wilson, *U.S. Legal Education Methods and Ideals: Application to the Japanese and Korean Systems*, 18 CARDOZO J. INT'L & COMP. L. 295, 335 (2010).

of approximately 1 to 5000.²⁵ In 2008, the total number of lawyers in Korea was only 10,000, with women accounting for approximately 10 percent.²⁶ “The small size of the [legal] profession adds to its prestige and makes lawyers the most privileged class in Korean society.”²⁷ The limited supply of lawyers, however, also means that ordinary citizens sometimes do not have access to legal services due to high fees.²⁸ The elitist nature of the profession is further magnified by the reality that the Korean bar tends to be dominated by graduates of the top universities in Korea, especially Seoul National.²⁹ Thus, historically, practicing lawyers in Korea have formed a “virtual oligarchic monopoly.”³⁰

To some, however, the national bar exam has served as a symbol of fairness and opportunity to achieve the career dream without formal education, as historically none was required to take the exam.³¹ There has also been no limitation on the number of times applicants can take the exam.³² In fact, many peo-

25. *See id.*

26. *See* Nathan Schwartzman, *Female Lawyers Increasing in Korea*, ASIAN CORRESPONDENT (Jan. 24, 2008), <http://asiancorrespondent.com/22595/female-lawyers-increasing-in-korea>. The percentage of bar passers who were female rose from 10.8% in 1994 to 18.9% in 2000. Jae Won Kim, *The Ideal and the Reality of the Korean Legal Profession*, 2 ASIAN-PAC. L. & POL'Y J. 45, 49–50 (2001) [hereinafter Kim, *Ideal and Reality*]. In 2010, the percentage of bar passers who were female reached a record high of 42%. Sangmin Lee, *Korea's Top Women's Law School Battles Reverse Discrimination Lawsuit*, HUM. RTS. MONITOR: S. KOR. (Apr. 4, 2011), <http://www.humanrightskorea.org/2011/korea's-top-women's-law-school-battles-reverse-discrimination-lawsuit>.

27. Kim, *Ideal and Reality*, *supra* note 26, at 47.

28. YOON, *supra* note 2, at 135.

29. Yun Suh-Young, *supra* note 9.

30. YOON, *supra* note 2, at 135.

31. Ahn, *supra* note 15, at 227. Most famously, former President Roh Tae Woo had no college education when he successfully passed the exam and became a symbol of achieving the Korean dream. *See id.* Beginning in 2006, however, the Supreme Court imposed a new requirement that only those who took more than thirty-five credits of law-related college-level classes were eligible to apply for the exam. *See* Chang Rok Kim, *The National Bar Examination in Korea*, 24 WIS. INT'L L.J. 243, 245 (2006) [hereinafter Kim, *National Bar Examination*].

32. Kim, *National Bar Examination*, *supra* note 31, at 245.

ple devote years to attempting to pass the bar because of the no-limit policy and low passage rate.³³

A related criticism of the bar exam system in Korea is the presence and success of bar preparation or “cram” schools.³⁴ A majority of Korean students studying for the bar spend time and money at these cram schools.³⁵ Many perceive university-level study on legal subjects as inadequate preparation for the exam, and cram schools also provide much-coveted shortcuts and test-taking techniques.³⁶ About 90 percent of successful bar exam takers attend cram schools.³⁷

Another major problem with the national bar exam system is the disconnect between the undergraduate-level legal education and the content of the exam itself.³⁸ Because the exam is designed to test legal theory and doctrine, which can be memorized, rather than to measure practical knowledge and professional technique, formal education is not required.³⁹ The lack of

33. *Id.* at 247. Between 1983 and 2005, the average age for exam passers was around 29, indicating that the majority of passers were not first time takers. *Id.*

34. Wilson, *supra* note 24, at 337. Cram schools are a way of life in Korea. There are cram schools for all levels, even at kindergarten. *See* Ahn, *supra* note 15, at 225. Cram schools have spawned an industry that is based on the huge numbers of students studying for the national bar examination, including book stores, private libraries, and housing. *See* Dai-Kwon Choi, *Proposed Legal Education Reform in Korea: Toward Professional Model*, 18 RITSUMEIKAN L. REV. 93, 98 (2001). These bar prep “villages” are found near the country’s top universities. *Id.* Cram school for the bar exam has been *de rigueur* for the majority of applicants for the bar due to the perception that university studies failed to prepare them adequately and to the pressure created by the very quota for passage. *See* Mark E. Steiner, *Cram Schooled*, 24 WIS. INT’L L.J. 377, 381 (2006). The successful bar taker may have studied at a cram school for eighteen months or longer. *Id.* at 392. There are reportedly six major cram schools, each with between thirty to forty teachers, which charge a monthly tuition rate of about 300,000 won, or about US\$270. *See* Kim, *National Bar Examination*, *supra* note 31, at 246 n.22. For those students who come from outside of Seoul and require housing and board, the monthly cost is about 900,000 won, or about US\$800. *See id.*

35. Wilson, *supra* note 24, at 337.

36. *Id.*

37. *Id.*

38. YOON, *supra* note 2, at 135.

39. *Id.* The exam has three components: first, multiple choice; second, essay; and third, interview. Kim, *Socrates v. Confucius*, *supra* note 16, at 336. One must pass the first component to move on to the second, and then must pass the second component to move on to the third. *Id.* at n. 77. The multiple

a real link between institutional legal education and the judicial exam results in the primary focus of undergraduate legal education being on theoretical subjects that help students pass the exam, rather than on any practical education that prepares them for practice.⁴⁰ With its emphasis on memorization rather than problem-solving, the bar exam, according to some, has not helped prepare Korean lawyers to serve as legal professionals in complex and diversified settings, including international transactions.⁴¹

It is interesting to note that the vast majority of students who graduate from pre-reform undergraduate legal programs offered by many Korean universities do not enter law practice.⁴² Because the passage rate for the bar exam is so low, many choose to forego pursuing a legal career in favor of non-legal careers in corporations or government.⁴³ Those who aspire to become university law professors typically pursue graduate studies, often abroad, rather than prepare for the bar exam, so only a minority of professors are admitted to practice, and there is relatively little exchange between the practicing bar and academia.⁴⁴ The ironic result, then, is that few law professors are licensed as lawyers, yet they are responsible for teaching and preparing students for careers practicing law.⁴⁵ Unlike the United States, only a small number of graduate students in Korea pursue careers as scholars; in fact, some male students

choice component covers constitutional law, civil law, administrative law, one elective subject, and competency in English; the essay component tests the same subjects as covered by the multiple choice component, plus commercial law, civil procedure, criminal law, and criminal procedure; the interview component includes the areas of ethics, specialized knowledge and ability to apply it, communication skills, manner and attitude, and creativity and perseverance. See Kim, *National Bar Examination*, *supra* note 31, at 244.

40. Yoon, *supra* note 18, at 40–41. The United States is also subject to the same critique, as noted in the Carnegie Report. See *infra* Part IV.

41. YOON, *supra* note 2, at 136.

42. See Setsuo Miyazawa et al., *The Reform of Legal Education in East Asia*, 4 ANN. REV. L. & SOC. SCI. 333, 352 (2008).

43. See *id.*

44. See *id.*

45. Ahn, *supra* note 15, at 240. This issue has been addressed by the law creating the new law school system through a provision requiring that 20% of the law school faculty have five or more years of practical experience. See Beophak jeonmun daehakwon seolchi unyeong-e gwanhan beo-pruyul [Graduate Law School Act], Act No. 8544, July 27, 2007, amended by Act No. 8852, Feb. 29, 2008, art. 16(4) (S. Kor.).

use graduate law programs as a means to defer military service until they pass the bar exam.⁴⁶

B. The Push for Reform

In 1987, the Korean government instituted a new Constitution, marking the beginning of a transition from an authoritarian style of government to a democratic system.⁴⁷ Democratization meant that the judiciary, the branch responsible for administering the national bar exam, would have to undergo significant reform and establish itself as an entity independent of undue influence from the executive branch.⁴⁸ Interestingly, the push for judicial reform came from the executive office, with the first push coming in 1995 from President Kim Young Sam, who advocated the adoption of a U.S.-style law school system to create more globally competitive legal professionals.⁴⁹ While this first proposal met with opposition and failed to materialize, President Kim did successfully institute a more open approach to the bar passage quota by gradually increasing the annual cap from 300 in 1995 to 1000 in 2002.⁵⁰ The quota increases began the trend that inevitably led to full-scale reform.⁵¹

In 2003, President Roh Moo-Hyun began his term with firm initiatives to reform the judicial system to ensure that its democratization process occurred in a manner parallel to the reforms that were taking place in government.⁵² The Judicial Reform Committee (“Committee”) was created with a stated mission “to improve the judicial system, which . . . enhances democratic legitimacy and public trust, provides easy access to jus-

46. See Ahn, *supra* note 15, at 240. Korea requires two years of military service for all males to be completed by age thirty-five. Most men fulfill the requirement in their early twenties. See Cent. Intelligence Agency, *South Korea*, THE WORLD FACTBOOK, <https://www.cia.gov/library/publications/the-world-factbook/geos/ks.html> (last visited Nov. 9, 2012).

47. YOON, *supra* note 2, at 119.

48. See *id.* at 121.

49. *Id.* at 126, 138.

50. *Id.* at 127. While the actual numbers of bar passers increased, the percentage of takers to passers remained low during this period, at about 3 percent, due to the related increase in the number of takers. Yoon, *supra* note 18, at 39–40.

51. See Choi, *supra* note 34, at 101. A second attempt to establish graduate law schools, in 1998 to 1999, also failed. See *id.*

52. YOON, *supra* note 2, at 127–28.

tice . . . and produces qualitative and globally competitive legal professionals,” among others.⁵³ The proposal to create an American-style law school system again generated a great deal of public debate, with opponents emphasizing the “American” aspect of the reform, suggesting that Korea was compromising its national character to pursue a popular international trend.⁵⁴ Despite opposition, the Committee’s proposals led to several reforms of the judicial system, culminating in the adoption of the new law school system in 2007.⁵⁵

Opposition to legal education reform originated from the existing bar and a minority of law professors who had every incentive to retain the status quo, as they enjoyed the social privileges and benefits of being part of the most elite social group in Korean society.⁵⁶ These opponents argued that the new system would devalue the bar exam and create a rapid rise in the number of lawyers, both consequences that held little advantage for existing lawyers.⁵⁷ Moreover, the reform would necessitate a shift in the power and influence over training new law students, from the Supreme Court, which has historically run the two-year mandatory training for bar passers, to professors and universities.⁵⁸

There was additional opposition to the reform from judges and practicing attorneys who argued that abolishing the JRTI and dramatically increasing the size of the practicing bar, thus creating more competition, would lower the quality of legal practice.⁵⁹ Underlying the debate was also the tension between academics, many of whom did not take or pass the bar, and

53. *Id.* at 128.

54. *See* Wilson, *supra* note 24, at 338. The need for a more globalized legal industry in Korea and more access to legal services for Koreans were part of the basis for the proposal. *See id.* at 336–37.

55. YOON, *supra* note 2, at 129–30. Another area of reform involved the creation of a jury system for a limited category of criminal cases. *See* Jae-Hyup Lee, *Getting Citizens Involved: Civil Participation in Judicial Decision-Making in Korea*, 4 E. ASIA L. REV. 177, 188–190 (2009).

56. *See* Choi, *supra* note 34, at 109.

57. *See* YOON, *supra* note 2, at 134–35, 138.

58. *Id.* at 136–37. The majority of law professors in Korea are not licensed to practice law and are not among the bar passers. *See* Kim, *Socrates v. Confucius*, *supra* note 16, at 341, n.3. For example, even at Korea’s top university, Seoul National University, only about 41% of the faculty have passed the bar exam. *Id.*

59. *See* Miyazawa et al., *supra* note 42, at 353.

those who passed the bar exam and were trained at the JRTI, highlighting the disparate interests between the two constituencies.⁶⁰ Perhaps a more compelling argument against reform was that the new system would discriminate against those who could not afford the cost of education in the new law schools;⁶¹ however, some proponents of the law pointed to the cost associated with cram schools and the opportunity cost of the time spent—often years—on bar preparation to rebut this notion.⁶² Moreover, opponents also argued that the new system would go against the notion of fairness that the bar exam symbolized, in that anyone, despite long odds of passage, was eligible to take it.⁶³ These concerns, while still voiced by some members of the Korean bar, gave way to the momentum of the pro-reform movement that ultimately resulted in the 2007 legislation outlining a new U.S.-influenced legal education model.

II. THE NEW “AMERICAN-STYLE” SYSTEM

In adopting an American-style law school system, Korea has resolved to establish a radically different model for educating and creating lawyers. Under the U.S. system, law schools are graduate-level schools responsible for training legal professionals, and the bar exam is a means to confirm and validate the mastery of law school curricula—a system that is the opposite of the pre-reform Korean system.⁶⁴ The objective of this major overhaul of the legal education system has been to address the need for professional legal education and legal specialists, in addition to concerns regarding professional ethics and the relatively small size of the legal profession.⁶⁵ Thus, the transition will shift Korean legal education away from high-status-but-generalist training to specialized, professional education aimed at producing lawyers ready for practice.⁶⁶

60. *See id.*

61. *Id.* The cost of three years at the new law schools is about 100 million Korean won (US\$87,800). *See S. Korea's First-Generation Law School Graduates Face Uncertain Future*, KOR. HERALD (Dec. 9, 2011), <http://view.koreaherald.com/kh/view.php?ud=20111209000539&cpv=0>.

62. *See* discussion *supra* note 34.

63. *See* Miyazawa et al., *supra* note 42, at 353.

64. YOON, *supra* note 2, at 139.

65. Choi, *supra* note 4, at 187–88.

66. Ginsburg, *supra* note 7, at 434–45.

In July 2007, the legislature passed the Graduate Law School Act (“GLSA”), a bill governing the creation and operation of new law schools.⁶⁷ The GLSA mandated the creation of new, three-year graduate law programs at a maximum of twenty-five universities throughout Korea to be chosen through a competitive selection process.⁶⁸ A total of forty-one schools participated.⁶⁹ The application and selection process involved many interested schools, each frantically preparing for site visits and vying to be chosen.⁷⁰ In January 2008, the Legal Education Committee selected the twenty-five schools that would be permitted to establish a three-year law school: fifteen universities in Seoul and ten universities in other provinces were selected in an effort to promote regional representation.⁷¹ The Ministry of Education set a nationwide quota of 2000 students per class, with each school assigned a maximum number of 40 to 150 students per class, depending on the size and resources of the school.⁷² The chosen universities were required to close their existing law colleges or departments, while those not chosen kept their existing law departments.⁷³ The new schools may recruit only students who have completed a four-year undergraduate program, and at least one-third of the new recruits must be non-law majors to ensure diversity among the students within the programs.⁷⁴ There is also an emphasis on English language skills for admission to the new law schools, indicating the importance of the ability to work and communicate in a global context.⁷⁵

67. Beophak jeonmun daehakwon seolchi unyeong-e gwanhan beo-pruyl [Graduate Law School Act], Act No. 8544, July 27, 2007, *amended by* Act No. 8852, Feb. 29, 2008 (S. Kor.).

68. Miyazawa et al., *supra* note 42, at 353–54.

69. Young-Cheol K. Jeong, *Korean Legal Education for the Age of Professionalism*, 5 E. ASIA L. REV. 155, 157 (2010).

70. Miyazawa, *supra* note 42, at 353.

71. *Id.*

72. *Id.* at 354.

73. Beophak jeonmun daehakwon seolchi unyeong-e gwanhan beo-pruyl [Graduate Law School Act], Act No. 8544, July 27, 2007, *amended by* Act No. 8852, Feb. 29, 2008, art. 8 (S. Kor.) There are questions regarding the future of existing undergraduate law programs, from their role in legal education overall, to the utility of a four-year undergraduate legal program that does not qualify students to sit for the bar. *See* Ahn, *supra* note 15, at 238–39.

74. Graduate Law School Act arts. 22, 26.

75. Wilson, *supra* note 24, at 339.

To regulate entrance into these new schools, a Korean version of the American Law School Admissions Test ("LSAT") was created, called the Legal Education Eligibility Test ("LEET"), which was administered for the first time in August 2008.⁷⁶ As with the LSAT in the United States, students in Korea are required to take the LEET to apply to one of the new law schools.⁷⁷ A new bar examination ("Revised Bar Exam") was also created for the first graduating class in 2012 and is expected to replace the old state bar exam in 2018.⁷⁸ By then, it is expected that most of the role of the JRTI will shift to the new law schools.⁷⁹ In contrast to the old exam, law school attendance is a prerequisite for sitting for the new bar exam, and the number of attempts to pass is limited to three within five years.⁸⁰

Similar to the bar passage rate in the United States,⁸¹ the passage rate under the new system was expected to be 70–80%, with those who successfully complete law school having little difficulty passing the exam.⁸² To codify this expectation, the Ministry of Justice established a passage quota of 75% in 2010,⁸³ amid protests from current law school students who ad-

76. YOON, *supra* note 2, at 141.

77. Wilson, *supra* note 24, at 339–40.

78. Kim, *Socrates v. Confucius*, *supra* note 16, at 324; Sarah Kim, *First Law School Grads Face Trial over Jobs*, KOR. JOONGANG DAILY (Jan. 11, 2012), <http://koreajoongangdaily.joinsmsn.com/news/article/html/913/2946913.html> [hereinafter Kim, *Grads Face Trial*]. The first Revised Bar Exam was administered in January of 2012, *id.*, two years after the Justice Department administered a mock version of the new bar exam. See Jeong, *supra* note 69, at 191. It is anticipated that the old bar exam will be replaced by 2018, and the old system completely phased out by 2020. See Kim, *Grads Face Trial*, *supra*.

79. Wilson, *supra* note 24, at 340.

80. Bar Examination Act [byeonhosa siheom-beop] (Law No. 9747, May 28, 2009), article 7(1).

81. Wilson, *supra* note 24, at 343.

82. YOON, *supra* note 2, at 142. In raw numbers, this passage rate is expected to yield 1500–2000 students each year, starting in 2012. Wilson, *supra* note 24, at 340. Of the 1998 students that entered the new schools in 2009, 1698 students took the new exam, the rest opting to take civil service exams or choosing to forego a legal career altogether. Kim, *Grads Face Trial*, *supra* note 78.

83. Kim, *Grads Face Trial*, *supra* note 78. The 75% quota on passage of the new exam, while dramatically higher than the old state bar exam, has had a sobering effect on the prospect of obtaining legal jobs after graduation. *Id.*

vocated for a higher quota, for instance between 80 and 90%.⁸⁴ The view prevailed during reform discussions that limiting enrollment numbers would enable a high bar pass rate and minimize the reliance on cram schools.⁸⁵ The hope was that, with the bar exam taking on less importance relative to the old system, students would be able to focus more on their coursework and pursue a more diversified curriculum and practical learning opportunities,⁸⁶ allowing for a more globally competitive legal workforce.⁸⁷

To achieve the ideals of the GLSA,⁸⁸ both the content of the curriculum and the pedagogical method employed at law schools must be altered.⁸⁹ In particular, the curriculum needs to become more globalized and diversified, offering courses taught in English and covering foreign legal systems and international law.⁹⁰ The new emphasis on coverage of international law reflects the understanding that Korea needs to produce lawyers who have the skills necessary to deal with a globalized economic and legal community.⁹¹ A more diversified curriculum will allow graduates to work in a wide range of sectors, including international organizations and NGOs.⁹² There also

84. See Park Si-soo, *Law School Students Threaten to Quit*, KOR. TIMES (Dec. 6, 2010), <http://www.koreatimes.co.kr/www/news/include/print.asp?newsIdx=77563> [hereinafter Park, *Threaten to Quit*].

85. See Peter A. Joy et al., *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, 457 (2006). The prediction was that smaller student bodies at the new law schools would also allow the development of curricula that include lawyering skills courses and clinical education. *Id.*

86. See Hyung Tae Kim, *Legal Market Liberalization in South Korea: Preparations for Change*, 15 PAC. RIM L. & POL'Y J. 199, 229 (2006).

87. *Id.*

88. Article 2 provides the following language: "to cultivate lawyers . . . possessing knowledge and capabilities that enable professional and efficient settlement of complicated legal disputes, with the objective of providing good legal services that meet the diverse expectations and demands of people." Beophak jeonmun daehakwon seolchi unyeong-e gwanhan beo-pruyl [Graduate Law School Act], Act No. 8544, July 27, 2007, amended by Act No. 8852, Feb. 29, 2008, art. 2 (S. Kor.)

89. See Wilson, *supra* note 24, at 340–41.

90. *Id.* at 341.

91. See Jeong, *supra* note 69, at 177.

92. *Id.* at 178.

needs to be a pedagogical transition from the lecture format, with its emphasis on memorization, to more interactive teaching, including some use of the Socratic method.⁹³ A main objective of the new system is to emulate what U.S. law schools typically explain as their goal in educating students: “to think like a lawyer,”⁹⁴ which means learning skills such as research and writing, analysis, and use of hypotheticals.⁹⁵

The new curriculum also needs to be more practice and skills oriented. A clear statement of this intent is the provision of the GLSA requiring that at least 20% of all faculty at the new law schools have at least five years of practical experience.⁹⁶ The GLSA also requires the new schools to provide professional training and integrate theory and practice.⁹⁷ Specifically, they must provide the following courses: professional responsibility, legal research, legal writing, moot court, and a practical internship.⁹⁸ Most schools will offer skills courses that cover civil, criminal, constitutional, and tax litigation, while some plan to offer clinical courses and courses in contract drafting, negotiations, and tax planning.⁹⁹ Training lawyers to be professionals, rather than “functional bureaucrats,” requires emphasis on ethics and practical skills, hence the requirement of practical courses at the new law schools.¹⁰⁰

Finally, the reform will also address what its proponents have referred to as a problem with legal ethics.¹⁰¹ Allegations of unethical practices among judges and prosecutors, including preferential treatment to recently retired judges who represent private parties in the court where they used to sit, have fueled the demand for an emphasis on ethics and professional responsibility in legal education.¹⁰²

In addition to instituting a new curriculum and pedagogical approach, legal education reform also forces Korea to face the

93. Wilson, *supra* note 24, at 340.

94. See Kim, *Socrates v. Confucius*, *supra* note 16, at 327.

95. See *id.* at 327–28.

96. Beophak jeonmun daehakwon seolchi unyeong-e gwanhan beo-pruyul [Graduate Law School Act], Act No. 8544, July 27, 2007, *amended by* Act No. 8852, Feb. 29, 2008, art. 16(4) (S. Kor.).

97. Wilson, *supra* note 24, at 341.

98. *Id.*

99. *Id.*

100. Jeong, *supra* note 69, at 176.

101. Miyazawa et al., *supra* note 42, at 352.

102. *Id.*

economic challenge of employing more than double the number of new lawyers each year at a time when the nature of legal employment in Korea is already changing due to the opening of its legal market to foreign businesses.¹⁰³ Underlying these many layers of challenges is the question of cultural compatibility between the American and Korean legal systems and the best way to ensure that any clashes do not impede the success of the reform. Consequently, the reform will test Korea's ability to adapt and modify not only the way lawyers are educated and employed, but also the role they play in Korean society.

III. CHALLENGES POSED BY THE REFORM

Korea's adoption of an American-style legal education system will no doubt run into various short and long term challenges—economic, cultural, and pedagogical. While these challenges have already begun to test Korea's will to persevere with the reform, they are only natural, given the scale of systemic change that is being instituted. Staying committed to the reform's goals and being open to finding effective ways to resolve these challenges will be essential in the transition.

A. Economic Challenges

The immediate problem facing the first class of graduates seems to be economic, as legal job seekers, in their increased numbers, are already facing heightened competition for jobs, and tension between the interests of traditional JRTI students and new law school students is growing.¹⁰⁴ Understandably,

103. Wilson, *supra* note 24, at 344.

104. See, e.g., *Law Loses Luster as New Attorneys Face Unemployment*, CHOSUN ILBO (Aug. 28, 2009), http://english.chosun.com/site/data/html_dir/2009/08/28/2009082800354.html (reporting that more JRTI graduates have had difficulty finding employment as of 2009; starting in 2012, about 2000 graduates from the new law schools will join 1000 JRTI graduates in vying for legal jobs); Na Jeong-ju, *Law School Graduates Face Grim Reality*, KOR. TIMES (Aug. 1, 2011), <http://www.koreatimes.co.kr/www/news/include/print.asp?newsIdx=91997> (the 2000 or so graduates from the new law schools entering the work force will face fierce competition for a limited number of jobs); Park Si-soo, *Dispute Deepening over Recruitment of Prosecutors*, KOREA TIMES (Mar. 2, 2011), <http://koreatimes.co.kr/www/news/include/print.asp?newsIdx=82368> (JRTI trainees protested against government plans to hire prosecutors from the top students at the new law schools by boycotting the opening ceremony of the JRTI); Park, *Threaten to Quit*, *supra* note 84 (current law students rally in

those who became lawyers under the old system might feel territorial and even resentful of those who took the “easier” route and are now competing for the same positions. However, once the old bar exam and the JRTI are completely phased out, these tensions should subside. The greater challenge is to normalize the marketplace quickly to accommodate the higher number of professionally trained lawyers. The more efficiently this process can occur, the greater the likelihood that the new system will take hold and preserve the public confidence.

Arguably, the single most powerful incentive for Korean policymakers to take on legal reform has been the globalizing trends in the marketplace and the recognition that Korean lawyers are not properly trained to handle international business transactions. Just as other countries responded to economic and cultural globalization by reforming their legal education systems,¹⁰⁵ Korea is also dealing with the reality of the growing number of transnational law firms in Seoul, as well as global NGOs.¹⁰⁶ Under the 2007 Free Trade Agreement between Korea and the United States, the Korean legal services market began a three-stage process of liberalization in 2008.¹⁰⁷ Part of the challenge for the new schools is to provide effective training for lawyers to function and compete against non-Korean legal

anticipation of Ministry of Justice’s proposed quota on passage of new bar exam).

105. Japan undertook a legal education reform based on the three-year graduate law school in 2004. Wilson, *supra* note 24, at 319. See David S. Clark, *American Law Schools in the Age of Globalization: A Comparative Perspective*, 61 RUTGERS L. REV. 1037, 1073–74 (2009). While Korea was the first to raise the idea to emulate the American-style system in 1995, the reform stalled because of political opposition there, and Japan was able to implement a similar reform first. Ginsburg, *supra* note 7, at 437. In Japan, the substantial gap between the number of law school graduates and those permitted to pass the national bar exam threatened to endanger many of the sixty-six new law schools. *Id.* Because Korea and Japan have had similar legal education systems, Korea can learn from the specific challenges Japan faced in its experience with legal education reform. See Wilson, *supra* note 24, at 341. Australia, Hong Kong, Taiwan, and the Philippines have also embarked on legal education reform towards an American-style system. *Id.* at 298 n.2.

106. Clark, *supra* note 105, at 1074.

107. See *Industry by the Numbers*, U.S. KOREA CONNECT, <http://www.uskoreaconnect.org/business-connect/industry-numbers/legal-services.html> (last visited Oct. 24, 2012).

service providers in an open legal market.¹⁰⁸ Prior to the reform, some changes were already underway in anticipation of the market opening. For example, “since 2000, Korean law faculties have increasingly adopted certain American law school elements, such as clinics, legal ethics, and specialized courses on subjects such as international business transactions.”¹⁰⁹ Also, in 2004, English became “a required subject on the Korean bar exam and the JRTI added international contracts and other international subjects to its curriculum.”¹¹⁰

One way to achieve a synergy between the education framework and the Korean market forces would be to diversify the legal market through expanding the realm of legal employment beyond the traditional areas of criminal and civil litigation.¹¹¹ Legal jobs must take root in sectors previously unoccupied by lawyers in Korea, such as in government and corporations. Moreover, while the newly opened Korean legal market promises to create more jobs for new graduates, an infrastructure for hiring and facilitating these placements must be prioritized.¹¹² These initiatives should stem increasingly from a combined effort between law schools and prospective employers in both the private and public sectors, rather than from the Ministry of Justice. Ultimately, Korean lawyers need to be able to work in a variety of sectors, serving many different functions, rather than be limited to the three traditional types of legal jobs—judge, prosecutor, or private practitioner. Thus, achieving diversification of legal jobs to support the new legal educa-

108. Korean lawmakers passed the Korean Foreign Legal Consultants Act, “a bill authorizing a partial opening of the domestic legal services market” to foreign lawyers working in Korea. Kyungho Choi, *Korean Foreign Legal Consultants Act: Legal Profession of American Lawyers in South Korea*, 11 *ASIAN-PAC. L. & POL’Y J.* 100, 101–02 (2009).

109. Clark, *supra* note 105, at 1074–75.

110. *Id.* Prior to 2004, applicants chose one of several language tests, namely English, French, German, Japanese, Chinese, and Spanish. Soogeun Oh, *Globalization in Legal Education of Korea*, 55 *J. LEGAL EDUC.* 525, 526 (2005).

111. See Nakin Sung & Won Woo Lee, *Reform of Legal Education in the Age of Globalization*, 5 *J. KOR. L.* 85, 88 (2005).

112. See Suh-young, *supra* note 9. The first class of graduates from the new schools seem to be facing a job market that is unprepared to deal with the influx of a greater number of graduates. Both companies hiring in-house counsel and government departments need to develop legal positions and recruiting mechanisms to facilitate the hiring process. See *id.*

tion system seems critical for the Korean bar to flourish in its new form.

B. Cultural Challenges

A key issue in adopting an American-style legal education system is reconciling the institutional and cultural differences between the two countries. U.S.-educated Korean lawyers and law educators have had a considerable influence on the trend towards adopting an American-style system. An increasing number of Korean lawyers, including judges, prosecutors, academics, and practitioners, have been coming to the United States in recent years for advanced law degrees or visiting scholar positions.¹¹³ The heavy influence of U.S. law on Korean law—particularly in the areas of corporate, international trade, bankruptcy, maritime and insurance, intellectual property, banking and securities, and antitrust law—has propelled the increase in Korean law students studying at U.S. law schools.¹¹⁴ The Korean government and private sector employers commonly provide “one or two-year expense-paid sabbaticals for study abroad for judges, prosecutors, government bureaucrats, and corporate employees.”¹¹⁵ Most large law firms also allow associates the opportunity to study in the United States and obtain practical training in a U.S. law firm.¹¹⁶ Many Korean students acquire an LLM in American Law degree and sit for a state bar, most notably the New York bar, as a means of gaining important experience and knowledge of U.S. law and adding prestige to their resumes.¹¹⁷ For most Korean students, their experience at U.S. law schools is the first time they are

113. For example, at Seoul National University, the most competitive school in Korea whose graduates are prevalent among the bar passers, more than one-third of the law faculty have an American J.D. or LLM. *See Information: Faculty Members*, SEOUL NAT'L U. SCH. LAW, http://law.snu.ac.kr/eng/Information/01Faculty_Members.asp (last visited Oct. 24, 2012).

114. *See* Sang-Hyun Song, *Korean Students in U.S. Law Schools and Foreign Students at Seoul National University Law School*, 18 DICK. J. INT'L L. 467, 467 (2000).

115. *Id.*

116. *Id.*

117. *See id.* at 468; 2011 Statistics, BAR EXAMINER, Mar. 2012, at 6, 11, available at http://www.ncbex.org/assets/media_files/Bar-Examiner/articles/2012/2011Statistics.pdf.

introduced to the Socratic method.¹¹⁸ Thus, by sheer exposure, U.S.-educated Korean law students and professors have gained a “broader and deeper global outlook and technical knowledge” of U.S.-style legal analysis.¹¹⁹

Achieving cultural compatibility between the Korean and U.S. legal systems will require bridging the gap between the two educational systems and the cultures they reflect. The problem is one of reconciling the cultural differences between a civil law system based on Confucian values that emphasize hierarchy and inequality, and a common-law system based on a fundamental belief in social equality.¹²⁰ For instance, in the law school context, Confucian values translate to a highly unequal relationship between professor and student, arguably making the lecture method, not the Socratic or interactive methods, the natural format for teaching.¹²¹ Resistance to a new, more “horizontal” relationship between professor and student can be expected in the short term, but over time, it will likely become normalized.

Moreover, the Korean legal system has a code-based civil law system, which was instituted under Japanese colonial rule and based on the German system.¹²² Given the basic differences between the two systems, one critique of the reform has been that emulating the American common law system is ill-advised because the lecture-style method is the only way to learn the large body of code-based law required by Korean law, and the differences in legal culture will make it impossible to make the transition to Socratic or other interactive methods.¹²³ While some observers argue that civil law systems generally require more lecture-based courses to enable teaching a greater quanti-

118. See Song, *supra* note 114, at 468.

119. See *id.* at 469.

120. See Chan Jin Kim, *Korean Attitudes Towards Law*, 10 PAC. RIM L. & POL'Y J. 1, 10–11 (2000) [hereinafter Kim, *Korean Attitudes*]. However, rapid “industrialization and economic development have expedited the democratization process by making the [social] structure . . . more horizontal through the emergence of the new middle class.” *Id.* at 20. As a result, the rule of law is becoming more integrated into daily life, and the gap between the values is narrowing. *Id.*

121. Kim, *Socrates v. Confucius*, *supra* note 16, at 347; see also Wilson, *supra* note 24, at 344–45, 348.

122. Wilson, *supra* note 24, at 344; Kim, *Korean Attitudes*, *supra* note 120, at 7.

123. Wilson, *supra* note 24, at 344.

ty of substantive law, others maintain that the overall quantity of content taught is comparable between the two systems and that there is an increasing trend of each method being integrated into the other.¹²⁴

Proponents of reform in Korea maintain that U.S. law influences international transactions related to Korean businesses, that the methodologies used in American law schools are transferable, and that common law is as broad and diverse as the law in Korea and other civil law countries.¹²⁵ There is also active discussion regarding moving towards an integrated approach to teaching, so that doctrine, theory, and skills co-exist in a single course to more accurately reflect what it means to be a good lawyer.¹²⁶ While ultimately a type of civil law-common law hybrid legal education system may be the most fruitful consequence of Korea's adoption of the American system, to make the three-year law school model work in Korea there must be a willingness to adopt the broader legal culture, not just the educational framework.

C. Pedagogical Concerns

The cultural dissimilarities will also be evident in the differences in pedagogical approach between Korean and U.S. law teaching. A practical challenge for implementing the GLSA's new curricular mandates is to identify educators who have the ability to put these changes into practice. For example, there will be difficulty finding full-time faculty who can teach skills-oriented courses, as full-time professors are barred from practicing law under the GLSA and practicing attorneys may not have the necessary teaching skills.¹²⁷ Some have suggested that faculty at Korean law schools need to become more diversified

124. See Charles R. Irish, *Reflections of an Observer: The International Conference on Legal Education Reform*, 24 WIS. INT'L L.J. 5, 8-9 (2006).

125. See Wilson, *supra* note 24, at 344-45.

126. For a more in-depth discussion of the movement toward integrated learning, see generally Byron Cooper, *The Integration of Theory, Doctrine, and Practice in Legal Education*, 1 J. ASS'N LEGAL WRITING DIR. 50 (2002); Myron Moskovitz, *Beyond the Case Method: It's Time to Teach with Problems*, 42 J. LEGAL EDUC. 241 (1992); Kathryn Stanchi, *Step Away from the Case Book: A Call for Balance and Integration in Law School Pedagogy*, 43 HARV. C.R.-C.L. L. REV. 611, 612 (2008).

127. See Jeong, *supra* note 69, at 184, 184 n.71.

by hiring more foreign professors.¹²⁸ Moreover, forging closer ties with foreign law schools through exchange programs would allow students to understand legal issues in a global context, making them better able to serve those needs.¹²⁹ Greater presence of foreign professors will be helpful early in the transition, but in the long term, Korean educators must be the ones to teach the skills-oriented and specialized courses, and these courses must be integrated fully within the curriculum. To this end, it may be beneficial to provide systematic training for Korean law professors and hire additional faculty members who are practitioners. One method of gaining expertise on subjects that are new to the curriculum, such as first-year legal writing, is to have American professors teach workshops to train their Korean counterparts.¹³⁰

Korean law schools can learn from the experience and research already performed in the United States to implement curricular strategies that will produce lawyers who are more practice-ready. For example, integrating skills into traditional “doctrinal” courses across the curriculum, an idea that U.S. law schools are currently considering and implementing,¹³¹ can be a priority from the outset, thus establishing a new “norm” for law school curricula. While Korea has the seemingly daunting dual task of transforming both the content and method of teaching law, it is in a unique position to build the curriculum “from scratch” and find the best path for meeting these goals by utilizing the research and studies that the United States has already produced. With the new law schools in operation since 2009, Korea should seize the opportunity at this early stage of the transition to integrate the skills and values U.S. educators have previously identified as being essential for good lawyering.

128. *See id.* at 187–88.

129. *See id.* at 194.

130. For an example of a U.S. faculty-led workshop on legal writing at Seoul National University, see Jo Ellen D. Lewis, *Developing and Implementing Effective Legal Writing Programs in Korean Law Schools*, 9 J. KOREAN L. 125, 125–26 (2009). It is important for foreign legal educators teaching U.S. methods and curricula to appreciate the existing cultural context, rather than assume that the U.S. model must fit everywhere. *See* James E. Moliterno, *Exporting American Legal Education*, 58 J. LEGAL EDUC. 274, 278 (2008).

131. Wilson, *supra* note 24, at 353.

IV. OPPORTUNITIES TO INTEGRATE KEY SKILLS AND VALUES

A major overhaul of the legal education system in Korea has created major challenges, but it has also created a unique opportunity for Korean law schools to define and integrate the skills and values desired in a law school graduate. Furthermore, it affords the chance to address problem areas that the United States has identified in its own legal education system.¹³² The mission and goal provisions of the new law make clear that the reform is designed not only to emulate the American structure of law schools, but also the underlying skills and values.¹³³ Undertaking legal education reform at a time when the model American system itself is re-evaluating the direction of law school curricula presents an opportunity to develop and modify some of the existing aspects of the U.S. system. Korean law schools should target three specific areas for consideration: (1) greater emphasis on skills and their integration throughout the law school curriculum; (2) modified application of the case method and Socratic teaching; and (3) expansion of assessment methods to include more formative assessments.

A. Skills Integration

The American Bar Association has described fundamental lawyering skills as follows: problem solving, legal analysis and reasoning, legal research, factual investigation, communication, counseling, negotiation, litigation, alternative dispute-resolution procedures, organization and management of legal work, and recognizing and resolving ethical dilemmas.¹³⁴ These are skills that are common to all lawyers, regardless of the particular legal tradition of their respective countries.¹³⁵ Because of their importance, the recommendation of the ABA Task Force on Law Schools and the Profession is to have full-time faculty teach skills and values, because they have the time and expertise to devote to teaching and developing new pedagogical

132. See *infra* MacCrate Report note 134 and Carnegie Report note 138.

133. Wilson, *supra* note 24, at 340.

134. *Legal Education and Professional Development—An Education Continuum*, 1992 A.B.A. SEC. LEGAL EDUC. & ADMISSIONS 138–40 (Robert MacCrate ed.) [hereinafter MacCrate Report].

135. See Roy T. Stuckey, *Preparing Students to Practice Law: A Global Problem in Need of Global Solutions*, 43 TEX. L. REV. 649, 663–64 (2002).

methods, while maintaining the use of skilled practitioners as adjunct faculty.¹³⁶

As discussed in the previous section, the GLSA mandates that the law school curriculum include skills courses in recognition of their importance in training law students as professionals.¹³⁷ This has been a fundamental aspect of U.S. law training and central to the U.S. curriculum, but the challenge for both U.S. and Korean law schools now is to discover the best ways to integrate more skills into the law school curriculum to better train students for practice. Many U.S. law schools are currently trying to institute this integrative model based on the recommendations of a 2007 Carnegie Report.¹³⁸ One option is to introduce skills earlier in the curriculum to encourage student engagement through greater classroom rigor.¹³⁹ Furthermore, skills can be integrated into the curriculum such that both theory and practice are taught in the same course in recognition that skills and doctrine are not, and should not be, treated as separate or mutually exclusive.¹⁴⁰

Korean schools can also look toward including experiential learning through internships and externships at private law firms, governmental agencies, and judicial clerkships.¹⁴¹ More applied practice skills such as contract drafting and negotiations should also have a place in the curriculum.¹⁴² Instituting clinical programs would also greatly enhance practice skills, as they have in U.S. law programs, though there would have to be a change in the current rules under the GLSA barring faculty members from practicing law.¹⁴³ Just as U.S. schools are looking to remedy the lack of skills integration in their own curriculum, Korean law schools can both integrate skills into the curriculum, by weaving them into doctrinal courses and offering

136. See MacCrate Report, *supra* note 134, at 245.

137. See *supra* pp. 18–19.

138. See generally WILLIAM L. SULLIVAN ET AL., EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW (Carnegie Found. for the Adv. of Teaching ed., 2007) [hereinafter Carnegie Report].

139. Irish, *supra* note 124, at 8. Early introduction of skills is contrary to the pre-reform system in Korea, where undergraduate and cram school studies focused primarily on theory and practical skills were only introduced once a student gained entry into the JRTI. See *id.* at 7.

140. See *id.* at 11.

141. See Jeong, *supra* note 69, at 183.

142. *Id.* at 188.

143. See *id.* at 182, 184.

specific skills classes throughout the three-year curriculum, and hold them to the same importance and status as doctrinal courses.

B. Modifying the Case Method

The second area Korean law schools should consider as they establish their new pedagogical norm is to shift the teaching methodology from lectures delivering a large quantity of substantive information to one that is aimed at engaging students in an interactive and academically rigorous environment.¹⁴⁴ The American case-dialogue method, with a focus on teaching students how to “think like a lawyer,” stresses a way of thinking rather than a kind of knowledge and is designed to actively engage the student.¹⁴⁵ It teaches students to theorize from natural contexts based on a defined set of facts, apply specified rules and procedures, and then draw conclusions.¹⁴⁶ One critique of this method is the absence of a connection to actual situations that involve real people and matters of social need, justice, and morality.¹⁴⁷ Further, the case-dialogue method limits the ability to teach “how to use legal thinking in the complexity of actual law practice” and also fails to place sufficient emphasis on “the ethical and social dimensions of the profession.”¹⁴⁸ The value of this method, however, in actively engaging students in the classroom, is one that Korean law schools should adopt.

Even if it could be established that civil law based on codes requires teaching a greater quantity of substantive law, this would not preclude using Socratic or interactive components in classroom instruction. The exclusive use of the Socratic method in U.S. law teaching has been criticized as being overused and ineffective in cases where other teaching methods would expose students more effectively to the practice of law.¹⁴⁹ For Korean law schools, the Socratic method, and other interactive and engaging methods, could be employed as a component of the overall methodology, rather than supplanting the lecture format

144. Wilson, *supra* note 24, at 348.

145. See Carnegie Report, *supra* note 138, at 50–51.

146. See *id.* at 187.

147. See *id.*

148. See *id.* at 188.

149. Wilson, *supra* note 24, at 352–53.

entirely. Korean law educators, for example, should take an expansive approach to the traditional case method by integrating doctrine and skills to reflect the civil law system and its particular characteristics and to incorporate more practical, real-world applications.

C. Formative Assessments

The third area of focus for Korean law schools in drawing from the American experience should be the methodology for assessment in the classroom. The Carnegie Report takes to task the notion of summative assessment, namely the end-of-semester final exam, as the primary mode of assessing law students' performance.¹⁵⁰ Formative assessment, the converse of the summative assessment, offers opportunities to improve learning as the course proceeds and allows the instructor to make adjustments in teaching based on the results.¹⁵¹ If, according to the Carnegie Report, assessment is a tool to make students aware of what it requires to become competent in their field,¹⁵² this is an area that Korean schools should consider carefully, since historically the basic method of testing has been overwhelmingly of the summative type.¹⁵³ Assessing students on their practical skills as well as their mastery of legal doctrine should also promote classroom engagement. Moreover, assessing students on the full breadth of their knowledge and skills on the new bar exam would help enhance the connection between law school education and the bar exam.

In striving to filter out the weaker aspects of American law school education, Korean law educators and administrators should be mindful of the issues that have dominated the conversation on legal education reform in the United States and find ways to bypass them. The effectiveness of legal education generally, and legal reform in Korea specifically, will depend on whether the new system can honor and implement these skills and values of good lawyering in a meaningful way that reflects

150. See Carnegie Report, *supra* note 138, at 164.

151. *Id.* Student feedback about the final exam model was that the nature of their studying was unrelated to their performance on the final exam. *Id.* at 165. Further, they reported that there was no opportunity to practice what was going to be tested, and they were not able to gauge how they were doing in the course without feedback. *Id.*

152. *Id.* at 173.

153. Wilson, *supra* note 24, at 350–52.

the realities of Korean law. The risk attendant to a country with a distinct history and culture adopting a new method and system of teaching law should not be underestimated. The real challenge for Korea is to incorporate the aspects of the American system that best suit its needs and recognize the cultural limitations of employing new pedagogical methods.

CONCLUSION

Korea's legal education system has a deeply rooted history that should inform the current adoption of an American-style three-year graduate school system. A radical change in the process of educating law students will necessarily involve the types of economic, cultural, and pedagogical challenges Korea is currently beginning to face. While evidence of the difficulties of the transition fuels the national debate about the wisdom of taking on the reform in the first place, the motivation to reform should remain undeterred.

The assumption that the American three-year graduate school model is the "gold standard" as far as its ability to produce effective lawyers¹⁵⁴ has been the foundation of Korea's legal education reform. Ironically, Korea's overhaul of its legal education process is occurring at a time when American law schools are reassessing their system and revamping their curricula to meet the demands of the current marketplace and create more practice-ready lawyers. Going forward, Korean educators and administrators should recognize the unique opportunities afforded by the timing of the reform. Specifically, Korea should take advantage of the knowledge gained by the U.S. legal education community's current self-assessment to identify aspects of its own system that need improvement and modification. In this regard, Korea can incorporate the improvements and modifications from the outset and create a more effective legal education model that will yield a greater number of well-trained lawyers.

A bigger supply of qualified lawyers able to compete with their U.S. and other foreign counterparts will help Korea meet the demands of an increasingly globalized legal community, as all signs indicate that lawyers everywhere should have practical training and professional skills to bring to the table. Beyond

154. See Robert J. Rhee, *On Legal Education and Reform: One View Formed from Diverse Perspectives*, 70 MD. L. REV. 310, 314 (2011).

meeting the demands of a more globalized world, legal education reform should be motivated by the desire to produce lawyers who can simply provide competent legal representation to every client.¹⁵⁵ If Korea can keep its resolve to achieve both of these goals, its legal education reform will prove to be a major achievement in its modern history.

155. See Stuckey, *supra* note 135, at 675.