

Innovations in East Asian Law Schools and Collaborative Possibilities for US Law Schools

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The five papers presented in this symposium section are based on the presentations at the invitational session on “Innovations in East Asian Law Schools and Collaborative Possibilities for US Law Schools” organized by the Section on East Asian Law and Society (EALS Section) of the Association of American Law Schools (AALS) at the 2016 annual meeting of the AALS in New Orleans in January 2016. As the Chair of the EALS Section for 2015, I was involved in the planning of this session.

Founded in 1900, the AALS now consists of approximately 180 law schools in the US.¹ It holds an annual meeting in January every year. A large bulk of sessions at annual meetings are organized by sections, each of which has been proposed by members who share academic and other interests, and approved by the AALS Executive Committee by satisfying certain conditions.² There are approximately 100 sections that are categorized as an academic, administrative, or affinity section. Most sections are academic sections. While there had been sections on Africa, European law, and South Asia, and in spite of the long history of education on East Asian law since the 1960s and a rapidly increasing number of students from East Asia, there had been no section on East Asia. A group of law professors led by Matthew Wilson and Carole Silver wanted to change this. They first held an opening session on “Recent Developments in Legal Education in East Asia” at the 2014 annual meeting of the AALS in New York and proposed to establish a section on East Asian law and society. Wilson was elected as the Interim Chair and he and Silver started to collect signatures from interested faculty members of the member schools of the AALS. Wilson soon submitted a petition for provisional status to the AALS and the AALS Executive Committee approved it in May 2014. The EALS Section was born.

The first official session on East Asian law and society was organized at the 2015 AALS annual meeting in Washington, DC, and entitled “The Current State of East Asian Legal Education, Research, and Related Activities in U.S. Law Schools: Accomplishments and Future Challenges in the Current Legal Education Environment.” The EALS Section also conducted its first election of officers and Setsuo Miyazawa was elected as the Chair and

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1. aals.org (2016a).

2. aals.org (2016b).

Carole Silver was elected as the Chair-Elect for 2015. The EALS Section organized a full range of sessions at the 2016 AALS annual meeting in New Orleans, including an invitational session on “Innovations in East Asian Law Schools and Collaborative Possibilities for US Law Schools,” a luncheon with Jerome Cohen as a guest speaker, and a call for papers session on “Research in Progress in East Asian Law and Society.” All the papers presented at the invitational session are published in this symposium section, while the papers of two of the four honourees selected for the call for papers session, Yedan Li and Ryan Mitchell, are also published in this issue.

The invitational session on “Innovations in East Asian Law Schools and Collaborative Possibilities for US Law Schools” had two purposes. One was to provide an opportunity for US legal educators to hear perspectives of those who had been in the forefront of legal education reforms in East Asia. A wide range of scholars has published English-language articles on legal education reforms in East Asian countries.³ However, it is rare to see such articles written by those who have been leading these reforms as a law school dean, an officer of a national association of law schools, or an administrator of a university which operates a major law school. The organizers of this session contacted such people in South Korea, China, Taiwan, and Japan, and asked them to participate in this session—although the EALS Section could not offer them any financial assistance. Ultimately, Dean Soogeun Oh of Ewha Womans University Law School in South Korea, who was also the President of the Korean Association of Law Schools, Dean Weidong Ji of the KoGuan Law School of Shanghai Jiao Tong University in China, Dean Shang-Jyh Liu of the National Chia Tung University of Taiwan, and Professor Nobuyuki Sato of Chuo University Law School in Japan, who was also a vice president of Chuo University, graciously agreed to participate in the session at their own costs. Unfortunately, Dean Ji had to cancel his participation at the last moment for urgent business at his university.⁴ It is fortunate, therefore, to include his paper in this symposium section. It is also fortunate to publish a paper by Dean Liu here because it is rare to find an English-language paper on legal education in Taiwan.⁵ This symposium section is probably the first time that papers on legal education reforms in South Korea, China, Taiwan, and Japan have been published together.

The other purpose of this invitational session was to provide an opportunity for US legal educators to seriously consider how they can collaborate with East Asian law schools. There is an undeniable and increasing trend among US law schools to look at East Asia as a major supplier of their students, particularly to their LL.M. programmes. However, leading law schools in East Asia more or less share common trends toward professional and global legal education. Since legal education in the US is almost completely professional and leading law schools in the US are rapidly expanding their programmes to prepare students for global legal careers, US law schools should consider those East Asian law schools as potential partners for collaboration. Carole Silver graciously accepted the role of a discussant at that session

3. As an early example that compared legal education reforms in China, Japan, and South Korea, see Miyazawa et al. (2008). An incomplete list of more recent publications since 2010 may include: Burr (2010), Liu (2015), Minzner (2013), Shan (2013), and Zhao and Hu (2012) on China; Foote (2013) on Japan; Goedde (2014), Jeong (2011), and Kim (2012) on South Korea; and Wilson (2010) on Japan and South Korea.

4. Professor Sida Liu of the University of Wisconsin kindly stepped in and presented his paper on China entitled “The Local Roots of Globalization: Internationalizing Chinese Legal Education in the Early 21st Century” which was co-authored with Zhizhou Wang and Xueyao Li.

5. I conducted a LEXIS search, but it failed to find any article on Taiwan.

and agreed to publish her comment in this symposium section. She discusses two main challenges for collaboration: one is to “educate students to navigate a global practice environment” and the other is “maintaining and asserting control against bar authorities and other who aim to serve as the gateway to entry to the profession.” She presents a fair conclusion: “the development of a global curriculum is ripe for collaboration” regarding the former, while “local forces render collaboration unlikely with regards to law schools’ participation in local contests for control against other local actors and institutions” regarding the latter. One may go further and argue that the conditions in the latter can hinder the collaboration in the former. A clear example is Japan. The bar passage rate in Japan is only one-third of that in South Korea. While South Korea decided to close the mandatory apprenticeship managed by its Supreme Court, Japan decided to retain its mandatory apprenticeship managed by its Supreme Court, which is still largely designed to prepare apprentices for domestic litigations. While the Japanese Education Ministry encourages law schools to develop innovative programmes, particularly those aimed at globalization and clinical education, the pressure of the low bar passage rate and the need for preparing students for apprenticeship force law schools to increase their courses in bar examination subjects and discourage students to take those innovative courses. This dire situation in Japan may be an explanation for why it is rare to find top leaders of Japanese law schools at AALS annual meetings, while Chinese, Taiwanese, and South Korean participants appear to be rapidly increasing. Yet, collaboration with US law schools can still be indispensable for innovative legal educators in Japan to sustain their efforts to maintain innovative elements in Japanese law schools even under the current situation with the hope that, someday in the future, they will find an opportunity to expand their programmes.

It is fair to say that collaboration between East Asian law schools and US law schools is more complicated and challenging than is often mentioned. I hope that the five papers presented here will provide material for the serious exploration of real possibilities for collaboration across the Pacific.

REFERENCES

- aals.org (2016a) “The Association of American Law Schools,” <https://www.aals.org/> (last accessed 17 July 2016).
- aals.org (2016b) “The Association of American Law Schools—Sections,” <https://www.aals.org/services/sections/> (last accessed 17 July 2016).
- Burr, Anne M. (2010) “Law and Harmony: An In-Depth Look at China’s First American-Style Law School.” 28 *UCLA Pacific Basin Law Journal* 25–63.
- Foote, Daniel H. (2013) “The Trials and Tribulations of Japan’s Legal Education Reforms.” 36 *Hastings International & Comparative Law Review* 369–442.
- Goedde, Patricia (2014) “Globalized Legal Education, Human Rights Lawyering, and Institutional Reform: The Case of Refuge Law Clinic in South Korea.” 20 *Clinical Law Review* 355–78.
- Jeong, Young-Cheol K. (2011) “Korean Legal Education for the Age of Professionalism: Suggestions for More Concerted Curricula.” 5 *East Asian Law Review* 155–96.
- Kim, Rosa (2012) “The ‘Americanization’ of Legal Education in South Korea: Challenges and Opportunities.” 38 *Brooklyn Journal of International Law* 49–75.
- Liu, Xiaobing (2015) “Clinical Legal Education in China and the Issue of Locus Standi in Criminal Defense.” 23 *Willamette Journal of International Law & Dispute Resolution* 93–114.
- Minzner, Carl J. (2013) “The Rise and Fall of Chinese Legal Education.” 36 *Fordham International Law Journal* 334–95.

- Miyazawa, Setsuo, Kay-Wah Chan, & Ilhyung Lee (2008) "The Reform of Legal Education in East Asia." 4 *Annual Review of Law & Social Science* 333–60.
- Shan, Wenhua (2013) "Legal Education in China: The New 'Outstanding Legal Personnel Education Scheme' and Its Implications." 13 *Legal Information Management* 10–23.
- Wilson, Matthew J. (2010) "U.S. Legal Education Methods and Ideals: Application to the Japanese and Korean Systems." 18 *Cardozo Journal of International & Comparative Law* 295–357.
- Zhao, Jun, & Ming Hu (2012) "A Comparative Study of the Legal Education System in the United States and China and the Reform of Legal Education in China." 35 *Suffolk Transnational Law Review* 329–61.