

The Innovation of Legal Education in Hong Kong and Inspiration to Mainland China

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Abstract—As a special administrative region of China, Hong Kong retained its economic system and social system under the guidance of the "one country, two systems" policy. Therefore, as the only common law jurisdiction region in China, Hong Kong has a distinctive feature of legal education which has many differences with mainland China. As the global economic integration and economic structure adjustment in Hong Kong, the legal education in Hong Kong has kept changing and the trend of integration with mainland legal education has been more obvious. This article will focus on the various aspects of legal education in Hong Kong and use comparison analysis method to put forward on the development of legal education in mainland China. The last part of this paper will give feasible suggestions from the perspective of subject setting, legal practice, interdisciplinary training and lawyer training to promote the further integration of legal education system in both places.

Keywords—Hong Kong; Legal education; innovation; Development

I. INTRODUCTION OF LEGAL EDUCATION SYSTEM IN HONG KONG

Hong Kong's social system had taken place a series of changes in its century-long history of colonization, especially in the legal system, which basically followed the English common law tradition. Originated from the case law accumulated by courts, English common law advocates the court to follow the doctrine of precedence except in certain situations because of the case facts significantly different from its past precedent. This system guarantees the stability of the law while considering the flexibility needed for the development from time to time. [1] In the system of legal education, Hong Kong also basically followed the pattern of English legal education. Before the late 1960s, people who are interested in legal profession in Hong Kong had to accept the legal education in the United Kingdom. Only after they get the verification of lawyer qualification by the High Court of Hong Kong and Hong Kong Bar Association can they practice in Hong Kong. In view of the need to cultivate Chinese and western legal talents, the University of Hong Kong first began to explore the legal education system in Hong Kong independently. The School of Law of the University of Hong Kong was established on July 1 1984 and it was the first school of law in Hong Kong. The City University of Hong Kong then set up the department of law in 1987. The City University of Hong Kong has also contributed many legal

professionals to Hong Kong society for many years. The faculty of law of the Chinese university of Hong Kong is the youngest of the three law schools which was established in 2005. Then the legal education system in Hong Kong began to enter the stage of development. The teaching mode at that period was based on the English tradition of legal education and subjects were set up carefully to streamline which fully embodied the educational philosophy of "aiming at legal professional education to train elite talents". After the change of sovereignty over Hong Kong in 1997, due to the special status of its special administrative region, Hong Kong inherited and followed the common law system of the United Kingdom. Hong Kong's existing laws had been kept except those contravene the Basic Law of Hong Kong. Meanwhile, the national laws of People's Republic of China are not implemented in Hong Kong Special Administrative Region except those listed in the annex to the Basic Law concerning national defense and diplomacy. The legal education in Hong Kong began to focus on helping students develop a clearer understanding of the legal system in the Mainland through curricula and developing legal talents who have a deep understanding of both common law and the legal system in mainland China to meet China's needs in the new century. The Hong Kong government has included education as one of the six strategic industries for future development. It is actively pursuing Hong Kong as a regional center to provide higher education for local and international students. For example, the total public education expenditure in 2010 was 8.1 billion U.S. dollars, accounting for 20.1% of the total government expenditure and 4.5% of Hong Kong's GDP. [2]

At present, the legal education in Hong Kong is broadly divided into the stage of undergraduate-level, postgraduate-level and postgraduate certificate of laws-level. [3] The following part will focus on the innovations of the system of legal education in Hong Kong from several aspects.

II. THE CHARACTERISTICS OF HONG KONG'S LEGAL EDUCATION

Although the three universities have their own characteristics and advantages in teaching, they have provided many legal professionals for Hong Kong society over the years. In recent years, the trend of convergence in the legal education in Hong Kong with the needs of the training of mainland law professionals has made the legal education

system in Hong Kong more unique. “One country, two systems” is not an eternal policy, and Hong Kong legal education will eventually merge with the mainland China’s. However, in the current situation, legal education in Hong Kong still has its significant differences from the system in mainland China. The mainland China can take this opportunity to broaden the thinking of the legal education system reform. The major innovations of Hong Kong law education are reflected in the following aspects:

A. The unique academic degrees system

As mentioned above, Hong Kong legal education can be divided into three stages. The Bachelor of Law, like the Master of Law and Doctor of Law, is a basic degree of law and is designed for those who have not studied laws. The subject design is generally extensive. They focus on giving basic legal knowledge to students. The content includes legal theory, legal methods and Hong Kong regional legal knowledge, so that students can acquire basic legal knowledge and develop legal thinking patterns during undergraduate studies. Law students can apply for postgraduate study after their graduation. Of course, students who graduated from other undergraduate majors can also apply for entry. Hong Kong’s postgraduate degree in laws is divided into the Master of Laws (LLM) and Master of Philosophy in Laws (MPHIL) programmes, which are like the mainland. Hong Kong’s LLM programme is mainly for mainland students and overseas students. It has one year of study and mainly focuses on cultivating students’ legal and operational skills. LLM is divided into several different majors and in different directions to train students efficiently. At present, the University of Hong Kong has the most LLM majors which includes Master of Laws; Master of Laws in Arbitration and Dispute Resolution; Master of Laws (In Chinese) Law and other six majors. While MPHIL is a degree like Doctor of Philosophy in Laws (PHD) which requires students to conduct extensive research and write a thesis of publishable quality making an original contribution to knowledge, under the guidance of a member of the Faculty. Only a limited number of places are available each year and placements are highly competitive. [4]

Another unique degree of laws in Hong Kong legal education is Juris Doctor (JD). It is a kind of Master of Laws and has a higher academic burden than LLM programme and a longer learning period. Full-time JD students generally take two years to study. The content of the courses is more extensive than LLM. In recent years, more and more mainland students are eager to study laws in Hong Kong. The three universities do not have uniform enrollment criteria and they recruit students independently. However, students should meet the average grades and the English level requirements at least.

In general, the goal of Hong Kong’s legal education is clear. Each of the three law schools has its own advantages. More and more mainland legal talents are entering Hong Kong.

B. The cultivation of students’ practical ability

In the legal education in Hong Kong, law schools and teachers attach great importance to the cultivation of legal literacy of law students and the improvement of their research and learning abilities. Therefore, there are many lectures and

tutorials. In lectures, the professor will inform the students of the class in advance and release a large amount of reading materials. Students need to complete weekly readings before lectures to ensure the quality of classes. The teaching mode of tutorials is different. The professor will divide the students into several groups before or during the class. The professor also arranges different types of questions, such as case analysis and writing before the class. The students in the group discuss and communicate to prepare the results, and then feedback them to the professor. This kind of teaching mode enables students to absorb theoretical knowledges better and apply them in practice as soon as possible. And they can find their shortcomings and make up for it. The form of group discussion also enables students from different cultural backgrounds to learn from each other and improve in communication.

C. The setting of Postgraduate Certificate of Laws programme

Another innovation of Hong Kong legal education lies in its unique Postgraduate Certificate of Laws programme (PCLL). The PCLL programme is a compulsory study stage for Hong Kong local quasi-lawyers to enter. After the PCLL courses are completed, the students can enter the internship period. Upon the completion of the internship, they can obtain Hong Kong lawyers’ qualification for practice. PCLL teaching in the three universities is directly guided and supervised by the Hong Kong Law Society, the Hong Kong Bar Association and the Standing Committee on Legal Education and Training. The course subjects are also assessed by them. The following are the two main ways to apply for admission to the PCLL programme at the three universities: The first is to apply for continuing to pursue the PCLL programme after obtaining a LLB degree or a JD degree in Hong Kong. The second way is that applicants who have obtained a degree in laws outside Hong Kong need to study constitutional law of Hong Kong, Hong Kong legal system, and Hong Kong land law and pass the examination first then pass Hong Kong Conversion Examinations for PCLL Admission can the application be made. The instructors at this stage are also mostly practical or former practicing lawyers with rich experience to give students the skills in judicial practice and provide the latest information on the current practice situation. Emphasizing “learning from practice” to make students be able to reach the maximum degree of social reality at the time of being educated.

The application for the PCLL programme is fierce. Take the University of Hong Kong University as an example, the number of applicants and the number of students admitted to the in the PCLL programme in the 2016-2017 academic year were 706 and 397 respectively. [5] Other than meeting the basic conditions, applicants need to have a bright spot in terms of average grade point or language performance in order to improve their competitiveness.

III. THE ENLIGHTENMENT TO THE REFORM OF LEGAL EDUCATION IN MAINLAND CHINA

A. *Set up law disciplines carefully*

Law is a profound social science discipline, but at present, the setting of law disciplines in mainland China is too arbitrary. Nearly 600 universities in more than 800 undergraduate universities in mainland China have set up law majors. As we all know, legal talent should have been a top talent in a country. This large-scale expansion has led to the proliferation of law majors in the Mainland, and the level of education and teaching is uneven. The employment situation of law graduates has become increasingly severe. The legal education reform in the Mainland needs to learn from Hong Kong's prudent and streamlined attitude. We need to redesign the training system, improve the school entrance requirements and cut down the homogenization settings according to the comprehensive strength and quality of the institutions.

At the same time, the goals of different degrees of laws in Hong Kong are clearer than those in the Mainland. In addition to rigorously cultivating students' academic research capabilities at the doctoral level, the Mainland law schools have a wide range of legal science education for students in both undergraduate and master's degrees. Some colleges and universities divide law students into different departmental legal professions while more institutions are different. Most law schools just focus on cultivating students' basic legal knowledge. The widely adopted educational model is conducive to students to lay a solid legal foundation, but it is prejudice to cultivating sophisticated legal talents. Therefore, while mainland universities and colleges are simplifying the setting of laws disciplines, they should also pay attention to the cultivation of law students in different directions according to students' voluntary choices.

B. *Strengthen the improvement of students' legal practice ability*

Students in the Mainland often get a specific case after they graduate from law schools. The most common phenomenon is that the rough conclusions which they make are still placed in ordinary people's sense of fairness and are packaged in legal concepts that seem to fall from the heaven (not the actual legal system). However, it did not grasp the structure and thinking of the analysis, they did not know how to find the problem and solve it. [6] The legal education of many universities in mainland China instills a large amount of knowledge of legal theories and neglects students' legal practice. Most of law undergraduates have practical courses in trial simulation in the fourth academic year and most of the courses are not satisfactory. Most universities will also invest financial resources in the construction of moot courts. Although the moot court construction can effectively restore the actual court trials and universities that run the disciplines will regularly hold moot court competitions, however, during the competitions, students perform according to the prepared case scripts. The initial purpose of holding a moot court competition cannot be reached.

Regarding the setting of disciplines, the universities in mainland China should adopt a combination of theory and

practice, focusing on the model of practical ability training. Universities can set compulsory courses in the first semester to focus on cultivating students' basic legal skills. By the second semester, students will be offered elective courses in different directions. They can choose different courses according to different career plans and proposed employment fields. The assessment form of the course can also be adjusted, combining the traditional written examination with the interview assessment. This kind of teaching mode would strengthen the further training of law students and would be effective in improving the level of legal education in mainland China and the quality of lawyers. In addition, the importance of moot courts in legal education should also be emphasized. It is an effective way to improve the quality of practice. At present, the quality of moot court competitions held by law schools in Mainland must be improved.

C. *Set up Postgraduate Certificate of Laws programme*

Hong Kong's Postgraduate Certificate of Laws programme has its unique characteristics. There are quite a few differences between this kind of course and the courses of laws in the mainland of China, which is also used to make up for the gaps in legal education and lawyer training systems in mainland China. At present, the PCLL programme is still a blank in the mainland. Mainland China can learn from the experience of three universities in Hong Kong and set up a similar PCLL programme. It would be opened to undergraduate or postgraduate or doctoral students of laws. Students who are interested in joining the lawyers' profession can submit applications to universities. In combination with the reform plan outlined in the previous section, when setting up a PCLL programme at a university in mainland China it is not appropriate to adopt a large-scale opening method. It is advisable to use a trial-to-promote approach. Universities which acquire the comprehensive strength, especially in the law disciplines, is prioritized to carry out teaching pilots then set this kind of course in other universities gradually.

It is also necessary to draw lessons from Hong Kong's supervisory system construction experience after gradually launching a programme of PCLL in the mainland of China. It is possible to establish an institution for the supervision and guidance of the PCLL under the China Legal Education Research Association. The institution needs to be closely integrated with the various universities that are trying to acquire a PCLL programme. The institutions should provide immediate feedback on the teaching data. At the same time, the supervision agencies should also provide timely guidance and make annual reports to the public.

IV. SUMMARY

Hong Kong has been regarded as a special administrative region of China since its return to the present for 20 years. Compared to its colonial history, which lasted more than one hundred years, the history after its return is short and the transformation of the social system cannot be completed in such a short period. However, as a special administrative region, Hong Kong is in a temporary situation. From the development point of view, Hong Kong will integrate into the mainland China as a whole. As far as the field of legal

education is concerned, Hong Kong's existing education system has provided new ideas and good references for the teaching methods of universities and colleges in mainland China. This article analyzes the innovation of the legal education system in Hong Kong from the three aspects: the disciplines setting of Hong Kong legal education; the cultivation of students' ability and the unique Postgraduate Certificate of Laws programme. Therefore, this article proposes suggestions for the improvement of legal education in universities in mainland China. First, universities in mainland China need to streamline the establishment of disciplines in laws. Secondly, to strengthen the cultivation of practical abilities for law students. And third, try to establish a lawyer training system like the Hong Kong's Postgraduate Certificate of Laws programme. We firmly believe that the legal education in the mainland China is moving toward a bright future in reforms and high-level legal talents will continue to emerge.

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