

Legal Education Reform in Indonesia⁺

Hikmahanto Juwana^{*}

Foreword

Legal education in Indonesia has been in a state of reform since the time of Dutch colonization. Originally, legal education was a middle school education at the Senior High School level with the establishment of the *Rechtsschool* in 1908. In 1924, legal education was transferred to the higher education sector or a level equivalent to university. This transfer was formalized with the establishment of the *Rechtshogeschool*.

This article will endeavor to explain and analyze legal education reform in Indonesia. Initially, this explanation will focus on an evaluation of legal education reform which will include an evaluation of educational objectives and the organization of legal education. Next, based on the results of this evaluation the article will suggest a number of ways to improve or perfect the legal education process in the future.

The article contains two basic arguments. Firstly, based on the evaluation of legal education objectives in Indonesia it can be clearly seen that in reality these objectives are not autonomous. The objectives of legal education are very dependent on the intentions of the government of the time or the specific prevailing conditions in Indonesia. Yet, if one was to look at the graduates from any faculty of law, then it also becomes quite evident that a number of these legal education objectives do not have any significant influence.

The second argument is that the evaluation of the organization of legal education indicates several weaknesses that do have a significant influence on graduates of law faculties in Indonesia.

Legal education in this article has been reduced to mean legal education at the undergraduate level or a first degree of law. Nevertheless, in several sections the article will discuss two types of legal education; namely, academic or university legal education and professional legal education.

This article is based on the research and the empirical experience of the author. The author has had the benefit of completing the undergraduate legal education in Indonesia, and become a lecturer and currently the Dean of the Faculty of Law at the University of

⁺ This article contains the personal views of the author and is not to be interpreted as the views of the institution where the author is employed, specifically the Faculty of Law of the University of Indonesia. The author wishes to acknowledge the assistance provided by Yetty Komalasari Dewi and Hadi Rahmat, two young lecturers of the Faculty of Law at the University of Indonesia.

^{*} Dean and Professor of the Faculty of Law at the University of Indonesia. Professor Hikmahanto obtained his LL.B from the University of Indonesia, his LL.M from Keio University, Japan, and his Ph.D from the University of Nottingham, England.

Indonesia (FHUI). Additionally, the article draws on the experiences of the author as a practicing lawyer and as a bureaucrat in Government agency.

Evaluation of Legal Education Reform

The following is an evaluation of legal education reform in Indonesia. This evaluation of legal education will focus on two aspects, legal education objectives and the organization of legal education.

Legal education objectives need to be evaluated remembering that legal education reform in Indonesia is neither separate from the intentions of the government of any one period nor the specific prevailing conditions in Indonesia. Since legal education became a part of the higher education system in Indonesia, there has been more or less four periods of government that have had some influence on the law and legal education: the Colonial government, the government of Soekarno, the government of Soeharto, and the post-Soeharto governments. Each of these governments will be analyzed as to what the objectives of a legal education were during the respective periods of government.

Meanwhile, an evaluation of the organization of legal education must be undertaken primarily because organization represents the medium that ties together the objectives noted previously with the graduates produced by law faculties. The desired legal education objectives must be interpreted accurately into the organization of a legal education in order that law faculties produce the graduates expected of them.

a. Evaluation of Legal Education Objectives and their Impact

Legal education objectives in Indonesia have experienced a number of changes over time. These changes to the legal education objectives have tended to occur as there has been fundamental change of government, for example, an Indonesia that moved from being a colony to an independent state; an Indonesia in revolution to an Indonesia in the throes of development, and an Indonesia governed authoritatively to an Indonesia becoming increasingly democratic.

It is apparent that legal education objectives can neither be separated from what is occurring in Indonesia nor the intentions of the government. Soetandyo suggested that legal education objectives ‘are not a process that is autonomous,’ but rather was more forceful in stating that:

“a process that claims in a functional manner to follow political developments, particularly the politics that are closely connected with policy and the efforts of government to efficiently use the law to achieve objectives that are not forever in the legal domain and/or the justice domain.”¹

¹ Soetandyo Wignjosoebroto, “Development of the National Law and Legal Education in Indonesia in the Post-Colonial Era” may be accessed at http://www.huma.or.id/document1/01_analisa%20hukum/Perkembangan%20Hukum%20Nasional%20&%20Pendidikan%20Hukum%20Di%20Indonesia%20Pada%20Era%20Pascakolonial_Soetandyo.pdf

Simply, this means that legal education objectives are not a neutral product but ones that are colored by the intentions of the government. Consequently, these objectives are unlikely to prevail for indefinite periods of time.

The Colonial Dutch government introduced legal education in Indonesia to fill an administrative need; namely, to fill legal bureaucratic positions from the ranks of indigenous citizens. It was hoped that graduates of this newly introduced legal education would become judges of the *landraad* or legal officers in the offices of the Dutch Colonial government.²

Legal education objectives in this period were to create legal bureaucrats or *rechtsambtenaren*. The curriculum for legal education at that time was designed with a primary objective of ensuring that once students graduated they had a thorough knowledge of certain legal principles—especially those molded as legislations.³ In fact there was an inclination that successful graduates of this curriculum were very legalistic in that their knowledge of the law and did not touch upon the empirical realities experienced by those in the field.⁴

At the time Indonesia gained independence, legal education objectives changed. The legal education objectives were influenced greatly by the perceptions of the national leadership towards the law and a desire to create a uniquely Indonesian state. Soetandyo describes these perceptions as follows:

President Soekarno proclaimed a need to create a legal revolution to overthrow all aspects of colonial law that up to that point according to formal principles must still be viewed as the prevailing law. President Soekarno openly criticized legal experts and the hold of formal law as conservative powers that will serve to obstruct the wheels of revolution. The experts who have always been bound together legalistically to the this formal law—with the pretext of legal certainty—are always inclined to hold onto old systems and orders, which in reality were exceedingly colonial.⁵

It is not surprising then that the legal education objectives changed and it is even less surprising that they moved towards producing graduates that have not only the courage to throw off the shackles of Dutch Colonial law but also possessed the necessary skills to continue the revolution from colony to independence.

Legal education objectives changed again when the Soekarno government was replaced by that of the Soeharto government. In this period legal education was designed primarily to ensure that graduates were able to support the process of development in Indonesia.

Law students were expected to know just enough of the theory and the prevailing laws and regulations. Students were also expected to be sensitive to the operation of the law in

² Ibid., 4.

³ Ibid., 4.

⁴ Ibid., 4.

⁵ Ibid., 3.

the community. Mochtar Kusuma-Atmadja who at that time was the Chairperson of the Legal Sciences Consortium (KIH) was stringent in his promotion of the importance of sociology in legal education and law studies.⁶ Therefore, a direct consequence of this is that law in Indonesia – both in theory and practice – is always related to the very latest problems of socio-economic development.⁷

A note to this period, in 1993 in response to the needs of graduate employers, who considered that the graduates that were coming out of law faculties were not fit for practice, the law curriculum was amended (hereinafter referred to as 1993 curriculum).⁸ These amendments were designed to ensure that graduates knew not only just enough of the theory but also possessed legal skills. In this instance it is clear that both academic and professional legal education came together as one in one curriculum.

In the period of the post-Soeharto governments, which is also identified with the early stages of the democratization process in Indonesia, an intention that legal education produce progressive graduates has come to the fore. This idea was put forward by, among others, Satjipto Rahardjo from Diponegoro University.

According to Rahardjo progressive legal education represents an opponent to the educational status quo. This idea of progressive legal education came about as a reaction to the unresponsiveness of the law to the fundamental changes that were occurring in Indonesia in this period. The law was continuing to amble along its rather dogmatic path and was essentially considered to be insensitive to the process of transition being experienced in Indonesia. In any event the National Law Commission (KHN) rated legal education as being inclined to be monolithic.⁹

The elements of progressive education are that education is (1) creative, (2) responsive, (3) protagonist, (4) freedom in character, and (5) is orientated towards Indonesia and the needs of Indonesia.¹⁰ It is envisaged that if progressive legal education were to be fully implemented with the above noted elements, then law faculties would be able to create graduates that always place their conscience and justice above laws.

Currently, progressive legal education remains at the discourse level and as yet has not been implemented.

In consideration of the legal education objectives noted above, the question becomes, how far and significant are the stated objectives impacting upon the graduates produced by law faculties?

⁶ Ibid., 10.

⁷ Ibid., 10.

⁸ The curriculum is provided under the Minister of Education and Culture Decree (Decree No. 17/D/O/1993).

⁹ National Law Commission, "Towards a New National Legal Development Paradigm," February 2005 may be accessed at www.komisihukum.go.id/article_opini.php?mode=detil&id=113

¹⁰ Satjipto Rahardjo, "Where is Legal Education?", Kompas 8 April 2004.

Despite the differences, some of which are noted above, in the objectives of legal education from time-to-time, there seems to be no striking differences in the graduates produced by law faculties across this same time frame. Graduates of the 1930s, 1950s, 1970s, 1980s and even the 1990s can be reasonably stated to be the same. Recent graduates are still inclined to be legalistic and in that regard are no different from the graduates of the Dutch Colonial period, and tend to neglect the post-independence stated legal education objectives.

There are several reasons why a number of these noted legal education objectives are not seen to be significant to the graduates produced by law faculties.

First, the core legal education curriculum that was in effect during the colonial government period is still in effect today. If there is any difference, then the difference is located in the application of the credit semester system and the emphasis on the applied nuances of subjects.

Furthermore, on closer attention the majority of the substance of subjects in the core curriculum and the teaching methods has not fundamentally changed since the period of Colonial government. The substance of subjects and the teaching methods have already become self-perpetuating because of the lecturers involved. Lecturers are resistant to change despite changes, often fundamental, to the stated legal education objectives.

This problem of perpetuation is further exacerbated through the system of recruitment of lecturers. New lecturers are recruited to become assistants first. The recruitment process commences as soon as the prospective lecturer finishes their study, moreover in times past this occurred while the prospective lecturer was still a student. The principal lecturer undertakes recruitment based on the obedience of the candidate lecturer to the principal lecturer, as well as faithfulness to the substance of the subject and the teaching method employed. New lecturers must accompany the principal lecturer for a period several years before gaining sufficient trust to teach classes on their own and by this time they have been sufficiently indoctrinated into the ways of the principal, hence a perpetuating change-resistant legal education system.

This situation also perseveres because the text books used from year-to-year remain unchanged. Furthermore, whatever is presented in the subject by the principal lecturer then become the teaching materials, inclusive of any dictated notes and books, for any lecturer that follows. Students are neither given the freedom nor the opportunity to seek different perspectives. Students have come to believe, and the actions of lecturers appear to support this belief, that the lecturer wants the student to answer the exam questions with the answers expected of them and not to compare, contrast, or analyze based on different perspectives proffered by other experts on the relevant question.

Fourth, the majority of graduate employers tend to prefer the type of graduate that knows laws and regulations as opposed to one that has a broad understanding of the law. It can reasonably be said that the law in Indonesia has been reduced to regulations.

Therefore, whatever the specified objective is in legal education, law faculties will continue to produce graduates that accord to the tastes of graduate employers. Throughout the history of Indonesian law faculties it is worth noting that there has not yet been one law faculty courageous enough to produce a graduate that is different from those of other law faculties, even for the purpose of fulfilling legal education objective as determined by the political leaders.

Fifth, society's perceptions have resulted in the uniformity, in nature and type, of graduates produced by law faculties. The society stereotypes law faculties graduates into being very legalistic, good in memorizing, and above all faithful to legal doctrine. The consequence is that the organizers of legal education, lecturers, and even students consider that there are no other choices but to conform to the perceived society's stereotype.

In brief, it can be concluded that several of the legal education objectives noted in reality have no impact on the graduates produced by law faculties. Law faculties already do and will continue to produce graduates that resemble those graduates produced by law faculty first introduced by the Colonial government.

This conclusion can also be reasonably stated to indicate that legal education objectives really represent something that is neutral. It is also reasonable to state that legal education objectives in the Indonesian context do not accord with the preferences of political leaders or country-specific conditions because ultimately the graduates of Indonesian law faculties are generally the same.

b. Evaluation of the Organization of Legal Education

Leaving behind the several legal education objectives that have already been noted previously, implicitly it is recognized that legal education in Indonesia is directed towards producing graduates that possess legal knowledge and knowledge of the laws of Indonesia.

The question that arises now is whether the organization of legal education in Indonesia has translated this into the implicit legal education objectives? The short answer to this question is, not yet. One of the primary indicators is the many complaints from graduate employers. Moreover, law faculty graduates in Indonesia are deemed to be unable to compete with those graduates of other countries, this is especially the case at the regional level.

If this is the case, what are the weaknesses in the organization of legal education to date?

The following is an explanation of the weaknesses in the organization of legal education in Indonesia. There are five main weaknesses that will be analyzed; namely, there is no clear distinction between academic and professional legal education; the credit semester system; insufficient attention to support infrastructure; and, the strong interventions by those that drafted the curriculum.

1. There are No Distinct Differences between Academic (University) and Professional Legal Education

Legal education in Indonesia has for a long time not distinguished between academic and professional legal education. Distinction between the two types of education is important and it is important that this distinction is made. This importance derives from the fact that students studying law in its academic form are neither certain to nor will they immediately apply this in practice.

Since legal education was first introduced in Indonesia these two types of different education have been fused,¹¹ the only exception to this was for those individuals that intend to become notaries.¹² The curriculum has been drafted in such a way that graduates are expected to have a thorough theoretical legal knowledge while at the same time have the skills that are demanded by the professional world.

In the 1993 curriculum despite acknowledging these two types of education, the curriculum fused them into one in the one curriculum. Moreover, the fusing of university and professional legal education in the 1993 curriculum occurred as a result of almost all levels of higher education in Indonesia sort to implement the applied approach.¹³

Although this was the case, the subjects applied in the 1993 curriculum were insufficient to ensure that graduates were employment ready with respect to specific professions they were likely to enter.

The fusing of university and professional legal education is not a realistic objective. The allocation of time for students to garner the theoretical and practical knowledge is too short. Generally, law faculties will graduate students after they have followed a 4-year program however in some law faculties it is possible to graduate in 3.5 years. Clearly, this time frame is too ambitious to encompass two types of education and complete both successfully.

If one was to make a basic comparison with other commensurate professions,¹⁴ to become a doctor requires 4 years of university education and 2 years of professional education.¹⁵ To become an accountant requires 4 years of university education and 1 year of professional education. To become a psychologist requires 4 years of university

¹¹ Hikmahanto Juwana, "Rethinking the Legal Education System in Indonesia," *Jentera*, Special Edition, 2003: 95.

¹² In Indonesia, as in many Continental European Systems, notaries are one part of the legal profession that is required to participate in further education to obtain specialized legal skills.

¹³ Mardjono Reksodiputro, "Legal Laboratory as a Vehicle for Legal Skills Education through the Applied Approach" and "Legal Writing." *Law and Development*, No. 6 / XXIV, 487.

¹⁴ Data obtained from faculties within the University of Indonesia.

¹⁵ This is according to the new curriculum of the Faculty of Medicine, University of Indonesia. According to the former curriculum, academic education consists of 5 years of study and professional education of 1 year.

education and 2 years of professional education.¹⁶ To become a pharmacist requires 4 years of university education and 1 year of professional education.

It is not surprising that there has been a great deal of criticism leveled at law faculty graduates who, unlike their counterparts noted above, are able to immediately commence practice as advocates upon graduation without first having to complete any professional legal education. In this regard the KHN recommended, "... need to develop law faculties in the future that resemble the education patterns of medicine, in order [that graduates are] immediately employable."¹⁷

Currently, even though professional legal education exists, such as that for public prosecutors or judges, this education tends to just repeat of the university legal education already obtained.

This repetition occurs for two basic reasons. First, in professional legal education the materials are taught by academics that most do not have a background in practice or only minimal practice experience. Second, practitioners that teach the professional program are inclined to teach materials that are theoretical in nature. Thus, the permeating theoretical nature of the materials leads the presenters, both the academics and the practitioners, to believe the materials must be presented in this manner.

2. Weaknesses of the Credit Semester System

In 1982, the credit semester system was introduced in the organization of legal education. One of the consequences of this was that there were a number of year-long subjects that had to be broken down and studied across several semesters. This also meant that the names of the subjects were changed to accommodate the fact that they were now held across more than one semester.

In several law faculties, the total number of subjects offered has expanded, in some cases exponentially. In the FHUI, for example, there are more than 130 subjects offered in any one year. This increase in subjects offered has also occurred to satisfy the interests of certain parties that consider certain subjects are important to teach and thus are taught.

There are several weaknesses with the application of the credit semester system. First, students do not understand the continuity between one subject and another or understand that one subject may in fact be a pre-requisite for another subject they intend to take in the future. As a result students do not get the strong foundation needed to understand the law.

Furthermore, students do not adequately consider the subjects they choose. Most often subjects are chosen based on the ease of passing rather than in consideration of their needs post-graduation, particularly with regards to employment.

¹⁶ In the Faculty of Psychology, the professional stage is equivalent to a Masters and therefore requires 2 years of study.

¹⁷ Ibid., National Law Commission, "Towards a New National Legal Development Paradigm."

Other weakness is some subjects are overlapping in content due to lack of coordination between lecturers. Students are learning the same thing under a different subject name.

3. Lack of Attention in Supporting Infrastructure

This weakness in the organization of legal education occurs because policy and law faculty's do not pay sufficient attention in the supporting infrastructure, particularly with a view to facilitating the implementation of the curriculum. The main areas of supporting infrastructure that do not garner enough attention include, among others, the professionalism of lecturers, teaching methods, library resources, journal resources, lecture rooms, and the very large class sizes forced upon lecturers.

The professionalism of lecturers becomes a weakness since the majority of lecturers often reduce their academic duties to that of 'just' lecturing. The majority neither research nor do they write for any legal journals, including their university's own legal journal (if one exists). In the event research or writing is undertaken it is done in such a manner that it is the bare minimum required to meet the standards for promotion.

The professionalism of lecturers also relates to their attendance at lectures, the research completed, and any written work that may result. Senior lecturers, professors, and those with Doctorates are often pulled away from campus to burgeoning work opportunities off campus. In Indonesia it is considered natural, and even high prestige, for senior lecturers to work off campus. They tend to work in government agencies, the private sector, or they become campus bureaucrats.

There are a number of reasons for this, primary among these are demand from outside and financial. Financially, lecturer's salary does not meet their needs, especially higher education institutes run by the state. Ultimately, employment as a lecturer becomes a part-time venture and provides only just enough status.

Subsequent to the lack of professionalism of lecturers is that graduates often complain about the discord between what they have learned at university and reality that they come to learn post-graduation. Additionally, graduates also complain about the minimal amount of knowledge that they acquire through their university careers.

Another weakness is the teaching methods employed. Up to this point in time most lessons are still presented as one way communication. It is not uncommon for lecturers to dictate lecture notes to their students. Indeed the fault does not lie with the lecturer only. Indonesian students do not culturally possess the ability to question or challenge what is presented by the lecturer. They will listen just enough and make the minimum amount of notes on what is provided by the lecturer to pass.

The teaching methods employed are also related to subject materials. Teaching materials are sometimes limited to one or two textbooks and what the lecturer knows. Modules are sometimes not prepared and any reference books provided are the bare minimum.

Furthermore, subject materials are also not up-to-date with current trends or movements in the law. Much of the substance of the subjects remains unchanged from year-to-year irrespective of the many changes that have occurred in the laws and regulations as well as any other relevant legal products. Moreover, lecturers fail to put in the necessary effort to make the subject material relevant to current examples in the subject field.

In the teaching of students, lecturers do not demand or challenge their students to answer questions. Rather students give priority to answering questions in a manner that they consider to be the way the lecturer expects them to answer the question which in turn is expected to gain them a good grade. From year-to-year model questions and the types of questions will stay the same and therefore become easily learned by the students who tend to pass them down to their junior colleagues.

Students are neither given any incentives nor additional credit if they ably reveal the perspective of another expert. Incentives are also not provided if students' exhibit improvisation in answering questions covered in the case materials covered in lectures. There are no surprises that among students there is an impression that they will graduate if they learn the dictated notes or the exam problems for that lecturer.

Supporting infrastructure that does not garner enough attention includes law library resources and law journals.

Libraries have yet to become a critical component in the organization of legal education in Indonesia. Where there are law faculties within Universities it has always been deemed sufficient to have buildings and lecturers. They have disregarded library as an important part of the law faculties. Actually, without a functioning and equipped law library a law faculty in fact means very little. Without a law library, the role of the law faculty can be reduced to merely handing out law degrees. It must be acknowledged that it is law libraries, not lecturers that provide the broad insights for students.

Law library collections of Indonesian law in Indonesian are very limited and this problem of limited resources is even more acute in terms of English legal language. Furthermore, only a few of the law faculties in Indonesia have either the desire or the funds to subscribe to electronic legal resources such as *westlaw* and *lexis nexis*.

Even where law libraries exist, the tragedy is that the majority of lecturers and students do not actively use library resources. This is because subjects do not place any demands on students that they visit the library for research or other purposes. Students can graduate from law faculties having spent a minimum amount of time in the library, perhaps no time at all.

The problem of inadequate law libraries and usage is further exacerbated because many students and lecturers do not possess a library culture. Borrowed books sometimes are not returned. Books have pages torn out as the borrower does not want to photocopy it. There is a culture of self-interest in that one borrower need not consider other borrowers.

Moreover, the spaces provided in law libraries usually reserved for study and research are often used for discussions and talks that are not related to the law.

Another aspect of critical support infrastructure is the existence of a faculty's law journal. Many law faculties throughout Indonesia do not yet have a law journal. In those where a law journal is in existence it is general in nature. The articles that appear in these journals sometimes are merely to satisfy the conditions for obtaining a promotion for the author. Furthermore, both the author and the editor do not differentiate the types of articles accepted for the journal. Popular articles or seminar papers are accepted as is without any modification into an acceptable law journal format.

Many law journals are not managed professionally although there is an accreditation system in place. The receipt of articles is more based on personal relationships and friendships rather than the quality of the writing. There are also articles that are accepted not because of the quality of the article but rather the status or the name of the author. Articles from Professors are more readily received and published despite the fact that on serious peer review the standard of the legal research may not be at an accepted professional level.

Furthermore, articles in journals are seldom used as references by either students or lecturers. Students and lecturers alike seldom follow current issues or debates in journals. The majority, lecturers and students alike, read journals only if they must or there is a need to do so.

A consequence of the lack of attention paid to the existence of libraries and legal journals is the minimum legal knowledge that graduates acquire. Graduates also do not get the opportunities to gain legal knowledge. Moreover they are not as sharp as their colleagues that have graduated from overseas institutions.

Other supporting infrastructure which is lacking attention is subjects conducted with huge number of students. The number may come as high as 300 students. In such instance, the lecture may not be able to give special attention to the students. The lecture of a very large class has to do with the availability of rooms. This has become a problem since most of the time class room allocation is in the hand of the University, not faculty. The lack of building and class room infrastructure has to certain extent affected the quality of graduates expected under the curriculum.

4. The Strong Interventions by the Curriculum Drafters

The law education curriculum in Indonesia is dominated by the identity of the drafters. In the past there was an institution within the confines of the Department of National Education that had specific responsibility over the development of a number of sciences, including law. This institution was initially known as the Legal Sciences Consortium (KIH) which was later changed to become the Commission for the Discipline of Legal Sciences (KDIH).

In the beginning KIH had members from eight law faculties represented by their Deans, among them, the University of Indonesia, Gadjah Mada University, Padjadjaran University, Airlangga University, University of North Sumatera. It is unclear as to what the criteria for membership of the KIH or the KDIH was, except seniority and consensus. Additionally, the Head of the KIH or the KDIH was not a current Dean but rather a law lecturer appointed by the Department of National Education. The KIH and the KDIH were assisted by a number of experts from several higher education institutions from throughout Indonesia.

In January 2003, the KDIH was dissolved by the Department of National Education. Since that time the drafting and perfections of the curriculum or any other matters related to the organization of legal education has no longer located in one central location.

In theory, every law faculty now has the freedom to amend or perfect the curriculum as they see fit. Nevertheless, and in spite of this apparent freedom, the Deans of the state run law faculties have taken the initiative to meet periodically in a forum known as the Deans of the Indonesian Public Law Faculties Cooperation Board. At this time the current membership is 34, including a Military law school.

During the KIH or the KDIH period, the drafting of the curriculum was carried out by the Head, Deans, and experts. Thus, a frequent occurrence was that individuals involved in the drafting or perfection of the curriculum whether consciously or otherwise were able to exert their influence with specific interventions that allowed for their own respective perceptions to determine the subjects that were considered important in the curriculum. This led to the impression that the important determining factor was not the subject but rather the subjectivity of the proposer in the KIH/KDIH.

Considering, that the leadership and some experts who held positions in the KIH/KDIH had obtained further post-graduate education in the social sciences, then the fact that the legal education curriculum exhibited these social science influences is hardly surprising.¹⁸ In addition, those individuals that drafted and determined the legal education curriculum had already placed social science subjects into the compulsory subjects list of the legal education curriculum, which ensured that the study of law moved away from the strict study of law and maintained an element of how these laws were to apply in the society.

The influence of the social sciences also came to the fore because senior law faculties at that time were initially combined with the social sciences faculty.

It is difficult to deny that the social sciences have colored the organization of legal education and the legal curriculum. This has had the effect that law faculty graduates appear to have lost direction when it comes to the practice of law. Graduates have considerable difficulty and some are unable to distinguish between positive law and the values that exist in the community.

¹⁸ The experts appointed to the KIH/KDIH were those who had a legal education yet their further education as in the social sciences, such as sociology and anthropology.

The above is not intended to suggest that the influence of social sciences on legal education is not important. On the contrary, social sciences are very beneficial and helpful to law faculty graduates. Law faculty graduates with basic social sciences knowledge possess an increased sensitivity to the operation of the law in a country like Indonesia.

The negatives, which are sometimes excessive, of the social sciences on legal education are the distortions that arise with the traditional study of law. Law is studied in its social sciences context. In legal education in Indonesia, research and the writing of a thesis are based on a method known as social research. This is in spite of the fact that many of the legal issues would be better covered and handled using a doctrinal research approach. This results in students experiencing a great deal of confusion when they have to research and write their thesis.

Other problems include that there is not enough attention paid to the depth of the gaps between one law faculty and another in the organization and implementation of the curriculum. The mandated curriculum is followed in the senior law faculties but not followed in the junior law faculties. This lack of attention to the glaring gaps between law faculties is a direct result of the drafters of the curriculum coming from the senior law faculties and their inability to incorporate the demands and needs of the junior law faculties into the national curriculum.

Law Education in the Future

From the above evaluation of legal education it becomes evident that there are several weaknesses and problems. When these weaknesses and problems are accepted as that by the majority of law faculties in Indonesia, then there needs to be thought given as an appropriate solution to overcome the weaknesses and problems identified.

The following will present some basic thoughts on how the perfection of legal education in Indonesia might be accomplished.

1. The 'Neutralizing' of Legal Education Objectives

Into the future it is time for legal education objectives to be neutral of any outside interests. Legal education objectives must be freed from the desires of both, the political elite and policy makers as well as any special situations or circumstances that afflict Indonesia or will do so in the future.

In periods past, labels given to governments in Indonesia as Colonial government, Old Order, and New Order have seen a heavy burden placed on legal education objectives.

Neutral legal education objectives will produce law faculty graduates similar to those of times past. As law faculties will no longer be burdened with certain interests that ultimately have negligible impact on the graduates of law faculties.

From the perspective of a graduate, how beneficial the education obtained is depends on the knowledge acquired. Therefore, the duty of a law faculty is, clearly, to provide knowledge to its graduates in order that they can exploit their knowledge of the law as widely as possible and as demanded by the employment they choose.

Neutral legal education objectives will allow graduates to choose employment option without having to feel bound to outcomes considered desirable. Above all the reality of law faculty graduates is that they will frequently change employment and need to be prepared for this with a broad grounding in the fundamentals. Graduates will, without doubt, suffer if legal education were to be directed to only one specified outcome.

In this era of globalization, the challenge for legal education organizers is to produce graduates that are comparable with graduates from law faculties across the globe. For a number of law faculties they have already consciously begun to prepare their graduates for employment not only in their own countries but also in foreign countries. In this regard, and stating the obvious, legal education objectives in Indonesia must be comparable to those legal education objectives maintained overseas.

If one considers the 1993 curriculum the reality is that the legal education objectives are in fact already neutral. It was stated by Mochtar that the objectives of the curriculum were to provide an academic or theoretical foundation along with an effort to promote skills aspects and a practical command of positive law.¹⁹

Neutralizing legal education objectives is increasingly important if the orientation is to be towards graduate employers. Employers are extremely varied. Currently, graduate employers include the government or public sector and the private sector. In the government sector, graduates become civil servants working in the Department of Foreign Affairs, the Department of Finance, and other departments. While, the private sector is enormously varied providing a wide range of opportunities. Graduates accept work both locally and internationally. Local employment is in law firms and corporations tend to be the primary employers. In contrast, international opportunities can see graduates employed in law firms or international organizations, such as the Asian Development Bank.

The similarities between these graduate employers are that they require law faculty graduates to have acquired legal knowledge and knowledge of the laws of Indonesia that is free from the burdens of special interests.

In light of the above reasons, then it becomes apparent that legal education objectives in Indonesia, irrespective of whether they want to or not, must be made as neutral as possible. In short, the objectives of legal education are to provide basic legal knowledge and knowledge of the laws of Indonesia, aside from producing a stereotypical law faculty graduate.

¹⁹ Mochtar Kusuma-Atmadja, Legal Education in Indonesia: An Explanation of the 1993 Curriculum, Law and Development No. 6 / XXIV December 1994, 497.

The stereotypical graduate of a law faculty needs to be prioritized in the educational objectives in Indonesia so that graduates acquire that stereotype as is expected by the community and the profession. As a result of this, besides providing legal knowledge and knowledge of the laws of Indonesia, legal education objectives must also produce graduates that possess other specialized features. These features, among others, include an ability to see an event or fact from more than one perspective, capably of arguing in oral or written forms, skilled in interpreting words, and being meticulous in their work.

When the legal education objectives have already been made as neutral as possible, then these objectives must be incorporated into the curriculum. A curriculum that reflects neutral legal education objectives is a curriculum that has two distinct subject categories. First, subjects from all branches of the law; namely, civil law; criminal law; constitutional law; administrative law; and, international law. Second, subjects that encompass the laws of Indonesia, especially those subjects that influence the law in Indonesia. Presently, the law in Indonesia is particularly influenced by European (Western) law, Islamic law, and Traditional Community or *Adat* law.

The acquisition of this knowledge of the various branches of law is expected to provide universal knowledge (that is knowledge that it is not limited to Indonesia) of the law for students. This is critical in an era of globalization where Indonesian law faculty graduates demand to possess a universal understanding and knowledge of the law as well as that of legal jargon.

Meanwhile, the acquisition of positive law in Indonesia will provide the requisite legal knowledge of the law as it applies in Indonesia. This is what is expected by graduate employers of the graduates they will employ. Besides students having an understanding of the law, they also demand to have knowledge of Indonesian law. Knowledge of Indonesian law is important because the study of law is related to where the law is learned. It is reasonable to demand that graduates of Indonesian law faculties possess knowledge of Indonesian law.

Additionally, the curriculum may accommodate a number of subjects and teaching methods that will exploit students to possess the stereotypical features of a law faculty graduate.

2. *Distinct Separation between Academic (University) and Professional Legal Education*

Although professional legal education currently exists,²⁰ the separation between university and professional legal education needs to be continually striven for.²¹ It is

²⁰ At this time from the four traditional legal professions, professional legal education for the notaries has been in existence the longest. Meanwhile, legal education for judges and prosecutors has also been in existence for some time. Legal education for advocates has only come into existence in 2005 as a consequence of the Law on Advocates which makes it an obligation to undertake professional legal education.

worth noting that this separation is expected to be reflected in both the curriculum and the subject materials.

There are two dimensions that must be fulfilled in order that there are distinguishable differences between university and professional legal education.

The first dimension is a dimension related to the law faculty. Law faculties need to change the 1993 curriculum, remembering that this curriculum was designed to produce graduates that were capable of gaining a command of both the theoretical and practical simultaneously. The amended curriculum in the future need not be burdened with the elements of professional legal education.

The curriculum must concentrate on providing legal knowledge and a knowledge of the laws of Indonesia. In the event there is certain professional knowledge provided, that knowledge must be considered to be early exposure to the profession. Yet, it must be realized that the knowledge provided will not be sufficient for graduates to enter any specific profession.

The second dimension is a dimension that is related to graduate employers and professional organizations. Graduate employers must properly made understand of this separation of university and professional legal education. This is so that employers do not expect that the graduate is ready for immediate professional service.

Employers should understand that university legal education is not to prepare graduates that are ready for immediate professional employment in any specific area. University legal education is at the level of providing theoretical knowledge to graduates and this knowledge should not be characterized as the graduate being ready for immediate practice. On the contrary, those that graduate with a university legal education do not suddenly become ready for immediate practice in any profession that they may choose to enter.

This separation certainly does not mean professional legal education can be undertaken without the pre-requisite of participants having received a university legal education. University legal education must become a pre-requisite for those that intend to enter into traditional legal professions; namely, judges; prosecutors; advocates; and, notaries.

Although there is a separation between university and professional legal education and in spite of this separation the two educations are organized in stages. The conditions for a university legal education is important because the four legal professions noted demand that participants possess legal knowledge, both theoretical and of the laws of Indonesia.

²¹ This is a recommendation of KHN which states, “There is a need to separate professional education from the Master of Laws program (S2). Professional education is provided separate from an [undergraduate program] S1, but is not the equivalent of an S2.” See: National Law Commission, “Towards a New Paradigm of National Legal Development.”

Current professional legal education needs to be continually perfected. There is still considerable room for improving the professional legal education. Once professional legal education is established, then university legal education will no longer be burdened with the provision of elements of professional legal education. A number of the professional elements will be transferred to the professional legal education.

3. *Competency Based Curriculum (KBK)*

Recently, throughout Indonesia the competency based curriculum (CBC) is being introduced. The CBC is effective across basic, middle, and higher education levels. This policy certainly needs a response from legal education. The question becomes, what must be done in response to the policy putting into effect the CBC?

At this time the discourse is looking for ways of incorporating the CBC into the legal education curriculum. One of the ways is to identify beforehand the professions that law faculty graduates may enter. Once those professions have been identified only then can competencies be determined. The weakness of this method is that the professions that law faculty graduates may potentially enter are so enormously varied that it makes it difficult to determine appropriate standard competencies.

The incorporation of the CBC into the legal education curriculum does not have to be identified with the legal profession. For law faculties that provide a university legal education then the CBC must be interpreted as an effort to produce graduates that possess competencies that can be perceived by the society and the traditional legal profession as appropriate for the employment they will enter.

There are three main features that the society and the profession perceive and expect of law faculty graduates.

The first feature is that a graduate can see an event or fact from a different perspective. This should lead to arguments developing as a result of one person seeing one fact from a different perspective.

The second feature is the strength to find a basis for the argument being pursued. Here it is important that graduates have the skills to undertake investigations of available legal materials and resources. Investigations in this context can be research but not research as it is known in the social sciences. Research here corresponds with legal research books written and published in America or England.

The third feature is the ability to present the argument in a persuasive manner in any written or oral forum.

These three features must be reflected in the legal education curriculum. The CBC need not be reflected in the legal education curriculum through the introduction of new subjects, rather it may be introduced with subjects that already exist. Nonetheless new subjects may be introduced, such as legal writing or legal research.

The features of competency may also be reflected in both the teaching methods and the process of learning. This in turn will provide an answer to the weaknesses noted in the organization of legal education.

First, lecturers must abandon the one way communication method. Lecturers must be capable of encouraging students so that they want to know more about the topics that are the subject of discussion. The lecturer must also be capable of teaching the students to see facts from a number of different perspectives. Here, small classes are needed, whereas large classes are only for general lecture.

Second, evaluation of the achievement of students in class can no longer be based on the provision of the answers expected by lecturers. Evaluation must be based on the number of books read and used by the student in answering the question. Additionally, students are to be evaluated on their ability to analyze what has already revealed descriptively. The expectation from this exercise is that students will naturally come to undertake research then present that research and analyze the research results.

Third, is that subjects that provide introductory knowledge of the practical world must be utilized as a forum for students to argue a number of different perspectives. For example, the subject on Criminal Procedure law is to be used to allow students to practice seeing the issue from the perspective of judges, prosecutors, or advocates. Another example is in the International Legal Process subject debates in forums such as the International Court of Justice are to be used with different perspectives or students are asked to produce a United Nations Security Council Resolution from the perspective of a developing and developed nation.

If these three points are incorporated then the CBC can be introduced without tearing up the existing curriculum and starting from scratch.

4. Post-Graduate Education

Legal education in the post-graduate program needs to be reviewed. The post-graduate program, specifically the Masters program, is perceived primarily as a university education. One of the consequences of this for the curriculum is that the curriculum is formulated based on academic interests. However, in a modern world it is not necessary for the Masters program to be characterized as an academic or university program.

The Masters program has three main objectives. First, there is a university Masters program; second, there is a masters program that sophisticates the knowledge of the students; and finally, there is a Masters program for professionals.

A university Masters program is an education that is organized to prepare individuals who are intending to become lecturers or researchers. Moreover, this Masters education is to prepare students for the next level, a Doctorate.

The Masters program that has the basic objective of sophisticating and updating the knowledge of the students means that the students will have acquired a more detailed knowledge within a defined specialization upon graduation.

Meanwhile, the Masters program for professionals is intended to provide an academic title to those that have been educated for a specific profession. Professional education may or may not result in the award of an academic title. Yet, if legal education is intended to bestow an academic title then that education must be organized by a university. In America, where universities manage run law faculties as professional faculties, graduates are awarded the title Juridical Doctor (JD). In Indonesia, at this time, those that have already completed the notaries education program, as one of the conditions to enter the notary profession, are awarded a Masters of Notaries.²²

Meanwhile, the Doctorate program is a form of legal education best characterized as academic. This is because the written dissertation constitutes one of the requirements that reflect the detailed research of the students.

Conclusion

Reform of legal education in Indonesia will continue unabated. In the future there must be several '*perfections*' of the process. A perfection of the curriculum for undergraduate programs must be completed with the objective of providing a strong academic legal knowledge to students.

In the execution of changes to legal education in the future it must be noted that whatever the solution offered, the solution must be applied virtually so that students, lecturers, and any other stakeholders will not feel the change. From experience in Indonesia, abrupt change has always been counter productive.

There must also be awareness that whatever the legal education reform carried out it will need time, energy, money, and patience. These four components cannot be ignored as each is intricately related to the others. Nevertheless, it must be acknowledged that money is the most important key of these four components.

²² The Masters of Notaries is a requirement for an appointment as public notaries under Law No. 30 of 2004 on Notaries.