



2010

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Recommended Citation

Brian K. Landsberg, *A Train the Trainers Program for Building Legal Infrastructure in China*, 8 THE CIP REPORT 6 (2010).

Available at: <https://scholarlycommons.pacific.edu/facultyarticles/514>

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A Train the Trainers Program for Building Legal Infrastructure in China

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A critical part of any country's development is its legal infrastructure. The proper functioning of civil and commercial society depends upon the existence of a reliable system of law administered by dependable courts. Foreign and domestic businesses want some assurance that commercial disputes will be settled in accord with the law and the facts, and neither can thrive without some protection of fundamental human rights. Tourists and expatriates are also reluctant to visit countries that do not provide reliable legal protections. All this we commonly refer to as the rule of law. In 2006, the Pacific McGeorge School of Law received a rule of law grant from the U.S. Agency for International Development (USAID) to train

Chinese law professors in the teaching of professional skills and clinical courses. The lessons that future lawyers, prosecutors, judges, and government officials learn in law school will stay with them for life. While it is important to train existing legal professionals in professional skills and values, our program offers a potential long term multiplier effect through the creation of a cadre of law professors who will train many generations of lawyers, prosecutors, judges, and government officials.

Law professors have the opportunity and the obligation to advance the rule of law and social justice. A precondition to the rule of law is the existence of competent, ethical, and professional lawyers and judges.

As Professor Luo Wenyan wrote:

In China, the fast-growing economy and the construction of rule of law needs a great amount of legal professionals. As one of the crucial aspects of rule of law, legal education should prepare and qualify more and more lawyers, judges, procurators, government officials and other professionals relating to law practice.

Without skilled lawyers and judges, the law truly is, as Professor Li Chao characterized, just a piece of paper. Therefore, law schools must help their students become skilled practitioners. It is not enough to help students learn the substantive rules of law and legal theory. In addition, as Professor Hu Minfei has noted, "[s]tudents' capacity for solving problems should be emphasized and developed during their study in law school, as well as their legal knowledge." This is why experiential legal education is an essential element in creating skilled professionals.

It is difficult for a U.S. institution, such as Pacific McGeorge, to facilitate meaningful change in another country unless it has some understanding of the culture, law, and legal education system. While we disclaim extensive knowledge of Chinese law, the endeavors of



Luo Wenyan of Zhejiang Gongshang University teaching at 2008 Hangzhou Workshop.

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Chinese Infrastructure *(Cont. from 6)*

Pacific McGeorge in China date back to an exchange program that existed from 1982 to 1989. Since then, a number of Chinese students have taken Master of Laws (LLM) degrees at our school, including Zhu Suli, Dean of Beida Law School. In addition, Professor Li Feinan of Zhongshan University Law School in Guangzhou was a visiting professor at McGeorge. More recently, I helped start an ambitious summer program of skills education for Chinese, American, and German law students at the Kenneth Wang School of Law in Suzhou, under the leadership of our Distinguished Visiting Professors Frank Wang and Laura Young of the Wang Family Foundation and Dean Ai of the Kenneth Wang School of Law. Dean Ai has also lectured at our school. Our Dean, Elizabeth Rindskopf Parker, and I attended the 2005 conference in Beijing on clinical education, which was jointly sponsored by the Guidance Commission on Higher Legal Education under the State Education Ministry, the China Legal Education Research Association, and the Association of American Law Schools. The conference was hosted by The China University of Political Science and Law. At the conference, we learned that Chinese legal educators have a great interest in experiential legal education and that they welcome help from U.S. legal educators. In the fall of 2005, Pacific McGeorge held a conference in Sacramento on judicial independence and legal infrastructure, with Justice Dr. Jing Liu of the Supreme People's Court, Professor Wang Juan of the National

Guangzhou workshop, summer 2007.



Judges College, and Distinguished Visiting Professor Laura Young addressing this topic from the Chinese standpoint.

All of these exchanges, combined with our nationally recognized advocacy program, inspired us to apply to USAID in the summer of 2006 for a grant to promote the rule of law in China. Our proposal builds upon the work of the Committee of Chinese Clinical Education and the Ford Foundation, as well as on our experience in providing advocacy education in Chile. We also recruited, as a partner, the American University Washington College of Law due to its outstanding clinical education program. We sought as Chinese partners distinguished law schools that were geographically dispersed and with diverse histories and needs. We were very pleased that the China University for Political Science and Law, the Zhejiang Gongshang University

Law School, and the South China University of Technology Law School agreed to enter into partnerships with us. Our program is designed to assist Chinese law schools that wish to begin or strengthen their advocacy and clinical programs.

In the fall of 2006, USAID approved our proposal. Under the grant, we held workshops for Chinese law professors over two summers, first in Guangzhou and then in Hangzhou, on advocacy skills and clinical legal education. Chinese law professors completed LLM programs at Pacific McGeorge and Washington College of Law. Visiting faculty exchanges took place. We discussed the prospects for experiential legal education at conferences in Sacramento in 2008 and Beijing in 2009. A distinguished Board of Advisors, composed of Chinese and American

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Chinese Infrastructure (Cont. from 8)

after becoming a lawyer:

My most profound lesson in law school came from role-playing a negotiation in the Negotiations and Settlement Seminar. I chose a very ineffective strategy. I was surprised when, instead of striking a great deal, I struck no deal. When I began law practice, this trial and error was behind me, thankfully, for me and my clients.

A professor who has taught in our clinic related the following story to me. An elderly woman came into the Pacific McGeorge neighborhood clinic, very upset and uncertain what to do about a situation. She and her husband owned a small house in a poor neighborhood. Her husband had suffered a severe health problem and was now in a nursing home and, unfortunately, not expected to live much longer. She was overwhelmed with her caretaking responsibilities and unsure where to turn for help. She was concerned that he had not written or signed a will and had not provided written instructions regarding his end of life health care. What would happen to ownership of the house when he died? The student assigned to help this woman, under the supervision of the professor, drafted a will and health care directive. They took the documents to the nursing home and the husband properly executed the documents. Later, as the woman was leaving the clinic office, she turned around and exclaimed, “[i] just can’t believe that I have a lawyer.” Chinese law schools are now helping people like this woman obtain justice by training skilled professionals in the law. ❖

Oil Spill (Cont. from 15)

only two countries that may be directly affected, some have suggested that global treaties will be required to “stop industries from discarding harmful substances into the sea or the air.”⁷ Domestically, oil companies have a 1 cent tax per barrel to help pay for the clean-up, which would provide an estimated \$500 million over ten years. Another \$118 million of financial assistance will be provided to people affected by the spill in terms and will help Federal agencies monitor the slick and assess its impact.⁸

In President Obama’s Oval Office Address on June 15, he declared that, “this oil spill is the worst environmental disaster America has ever faced.”⁹ The size of the spill requires that the recovery and containment efforts involve the Federal government and the private companies responsible for the incident as well as international cooperation. It remains to be seen what the environmental and economic impact will be on the United States, the Gulf of Mexico, and international partners. ❖

⁷ Roger Payne, Subcommittee on Oversight and Subcommittee on Water and Wildlife Joint Hearing, *EPA’s Role in Protecting Ocean Health*. (May 11, 2010).

⁸ http://www.timesonline.co.uk/tol/news/world/us_and_americas/article7124502.ece.

⁹ <http://www.whitehouse.gov/the-press-office/remarks-president-nation-bp-oil-spill>.