



1-1-2010

Challenges and Opportunities of Importing and Exporting Experiential Education to China, The

Eleanor W. Myers

Temple University, Beasley School of Law

Jianmin Chen

Tsinghua University School of Law

Follow this and additional works at: <http://digitalcommons.mcgeorge.edu/mlr>



Part of the [International Trade Law Commons](#)

Recommended Citation

Eleanor W. Myers & Jianmin Chen, *Challenges and Opportunities of Importing and Exporting Experiential Education to China, The*, 42 *McGeorge L. Rev.* (2016).

Available at: <http://digitalcommons.mcgeorge.edu/mlr/vol42/iss4/4>

This Article is brought to you for free and open access by the Law Reviews at Pacific McGeorge Scholarly Commons. It has been accepted for inclusion in *McGeorge Law Review* by an authorized administrator of Pacific McGeorge Scholarly Commons. For more information, please contact msharum@pacific.edu.

The Challenges and Opportunities of Importing and Exporting Experiential Education to China

Eleanor W. Myers* and Jianmin Chen**

The publication of the Carnegie Report in 2007¹ was a culmination of pressures built over at least thirty years. The report might be viewed as a tipping point in the reform of legal education in the United States toward a more practical, experiential, problem-solving approach. Legal education in the U.S. has been studied and critiqued as impractical² and alienating.³ Recent economic contraction in the legal market has increased calls for more practical legal education focusing on solving real world problems and assisting students to develop professional identities as lawyers.⁴ For these reasons, experiential education is becoming a respected, lively, and developing feature of U.S. legal education.⁵

* Eleanor W. Myers is an Associate Professor at Temple University, Beasley School of Law, Philadelphia, Pennsylvania. The Roundtables described in this Article were part of Temple University's Rule of Law Program in China and were generously supported by the U.S. Department of State, Bureau of Democracy, Human Rights and Labor. The authors wish to thank each other for their successful collaboration and their respective law school deans, Wang Chenguang (former, Tsinghua), Wang Zhenmin (Tsinghua), Robert Reinstein (former, Temple), and JoAnne Epps (Temple), whose assistance and support made the Roundtables possible. Thanks also to Professor Mo Zhang, Director of Temple's Rule of Law Program in China, and Temple Law students Andrew Lessman and Diana Lin for excellent research support.

** Jianmin Chen is an Associate Professor at Tsinghua University School of Law, Beijing, China.

1. WILLIAM M. SULLIVAN ET AL., THE CARNEGIE FOUND. FOR THE ADVANCEMENT OF TEACHING, EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW (2007).

2. Harry T. Edwards, *The Growing Disjunction Between Legal Education and the Legal Profession*, 91 MICH. L. REV. 34, 35 (1992) (discussing the negative consequences of "impractical" scholarship).

3. See, e.g., Rhonda V. Magee, *Legal Education and the Formation of Professional Identity: A Critical Spirituo-Humanistic—"Humanity Consciousness"—Perspective*, 31 N.Y.U. REV. L. & SOC. CHANGE 467, 467 (2007) (describing how "Crits" focus on "alienation and despair" as common byproducts of traditional legal education); Peter Gabel, *The Spiritual Foundation of Attachment to Hierarchy*, in LEGAL EDUCATION AND THE REPRODUCTION OF HIERARCHY: A POLEMIC AGAINST THE SYSTEM: A CRITICAL EDITION 154, 162 (Duncan Kennedy ed., 2004) (explaining the two strands of critical legal studies as the critique of alienation and the realist/deconstructionist critique).

4. Such calls for reform are not new. See Edwards, *supra* note 2, at 38–39 (advocating for an emphasis on practical scholarship). For a recent view on reform, see Jamie R. Abrams, *A Synergistic Pedagogical Approach to First-Year Teaching*, 48 DUQ. L. REV. 423, 425–26 (2010) (emphasizing the need for reform to accommodate the rapidly changing legal market).

5. An example of widespread commitment to adopting an experiential approach to legal education in the U.S. is the Legal Education Analysis and Reform Network (LEARN), the group convened to assist in the implementation of the recommendations from the Carnegie report. LEARN includes the following diverse law schools as participating members and members of the Steering Committee: CUNY Law School (New York); Georgetown University Law Center (Washington D.C.); Harvard Law School (Massachusetts); Indiana University School of Law (Indiana); New York University School of Law (New York); Southwestern Law

The acceptance of experiential education has not been replicated elsewhere. In particular, Chinese legal education is characterized by lecture for the purpose of assimilating large quantities of factual information with little emphasis on development of legal skills or professional identity. In China, this is called the “Stuffing the Duck” (*tianya jiaoxue*) method of legal education.⁶ There are many reasons why this method of education has come to characterize most legal education in China, including a lack of consensus on the purpose and role of legal education (which is an undergraduate degree program); the need for curricular materials and teacher training to support the development of alternative methods of teaching; a civil law tradition which focuses on rules, doctrines, and formal systems of norms; and traditional educational and cultural patterns that place the teacher in an elevated position above the students.⁷

Temple Law School in Philadelphia, Pennsylvania has offered a Master of Laws (L.L.M.) degree in U.S. law to Chinese students in Beijing since 1999. The Master of Laws program, conducted in English, allows Chinese legal professionals to study a curriculum taught by U.S. law faculty that is similar to the core coursework of an American Juris Doctorate student. Participants in that program have included private lawyers, government officials, judges, prosecutors, defense attorneys, and Chinese law faculty. Many Chinese students have commented on the lively teaching-style employed in these classes. They have thrived in experiential classes such as Introduction to Trial Advocacy and commented favorably on the experiential exercises offered in classes such as Professional Responsibility and Criminal Procedure. They also report gaining a great deal from the Oral Advocacy component of their Legal Writing classes.

The idea for a series of Roundtables for Chinese law faculty to teach and develop experiential curriculum grew out of Temple’s L.L.M. program in China. We designed the Roundtables to require that a condition of participation was that the Chinese participants would use the techniques presented and create exercises for use in their own Chinese law classes after we were gone.⁸ These exercises

School (California); Stanford Law School (California); University of Dayton School of Law (Ohio); University of New Mexico Law School (New Mexico); and Vanderbilt University Law School (Tennessee). This group will undoubtedly assume a leadership role in implementing the recommendations of the report at both their own schools and others. See LEGAL EDUC. ANALYSIS AND REFORM NETWORK, GENERAL DESCRIPTION OF PLANNED PROJECTS 2009–2010, at 5 (2010).

6. Matthew S. Erie, *Legal Education Reform in China Through U.S.-Inspired Transplants*, 59 J. LEGAL EDUC. 60, 71 (“[T]he mainstream teaching approach . . . consist[s] of lecture . . . [T]here is infrequent student participation and almost no interaction. Very rarely are hypotheticals used or any sort of application of principles learned.”).

7. See discussion *infra* Part II (providing background on Chinese legal education).

8. The reference to “we” in this article refers to Professors Jianmin Chen and Myers who co-chaired the Roundtables and developed the program. In addition to Professors Chen and Myers, Roundtable faculty included Carrie Menkel-Meadow, Chancellor’s Professor of Law, University of California, Irvine Law School; James E. Moliterno, Vincent Bradford Professor of Law at Washington Lee University; Alan M. Lerner, Practice Professor at the University of Pennsylvania (since deceased); and Paul R. Tremblay, Clinical Professor of Law at Boston College. Assisting faculty included Louis Thompson, Assistant Dean for International and

were compiled into the *Textbook of Practical Legal Education—Make the Classroom a Real World*, a textbook of experiential curricula written in Chinese for other Chinese law faculty to use in their classes.⁹ The textbook was the centerpiece of our work at the Roundtables. So far, over three hundred copies have been distributed to Chinese law schools, with approximately five hundred additional copies slated for distribution in the fall of 2010. As far as we know, this is the first comprehensive experiential curriculum for law schools to be developed in China.

This Article discusses the highly successful cross-cultural collaboration that led to the introduction of experiential teaching methods into Chinese law teaching throughout China.

I. EXPERIENTIAL EDUCATION

Experiential education addresses questions of professional training and identity by exposing students to the concept of law as a means rather than an end.¹⁰ The goal of experiential education is to put students into the roles of

Graduate Programs, former Assistant Dean for International and Graduate Programs, Adelaide Ferguson, and adjunct faculty Professor John Myers, all from Temple University, Beasley School of Law. Faculty had experience using experiential methods in both clinical and doctrinal teaching, and most had previous international teaching experience as well.

9. THE TEXTBOOK OF PRACTICAL LEGAL EDUCATION (Jianmin Chen ed., 2009). We particularly want to acknowledge the work of Temple Law S.J.D. Lan Rongjie for his work translating and explaining the textbook to U.S. Roundtable faculty.

10. Three predominant forces gave rise to the experiential movement. First were the repeated calls from the practicing bar, bench, and many inside the academy for more practical legal training. The growth of the clinical movement within law schools was the beginning, but many have suggested these efforts are too little. Calls for bridging the gap between law school and the practice of law have been the subject of several national movements, sparked by the Ford Foundation's support, including the *MacCrate Report*, SECTION ON LEGAL EDUC. AND ADMISSIONS TO THE BAR, AMERICAN BAR ASS'N, LEGAL EDUCATION AND PROFESSIONAL DEVELOPMENT 157 (1992) and *Best Practices for Legal Education*, ROY STUCKEY, BEST PRACTICES FOR LEGAL EDUCATION: A VISION AND A ROADMAP (2007). Another force was the insistence that law schools teach and instill ethical and professional sensitivity in students. The Watergate political scandal in the U.S. was the impetus, but repeated corporate scandals have intensified the pressures on law schools to do more. As the field of professional responsibility grew, an educational consensus developed, recognizing that effective ethical education requires active engagement in solving real problems and that such active engagement and reflection ought to be present throughout the legal curriculum and not confined to a single course. The American Bar Association's *Stanley Commission Report*, COMM'N ON PROFESSIONALISM, AMERICAN BAR ASS'N, "... IN THE SPIRIT OF PUBLIC SERVICE:" A BLUEPRINT FOR THE REKINDLING OF LAWYER PROFESSIONALISM, reprinted in 112 F.R.D. 243, 248 (1987) and *Teaching and Learning Professionalism*, SECTION ON LEGAL EDUC. AND ADMISSIONS TO THE BAR, AMERICAN BAR ASS'N, TEACHING AND LEARNING PROFESSIONALISM (1996) are examples of this trend. Last, throughout this period, learning theory was also developing rapidly. Educators have come to understand that there are diverse learning styles and that emotional engagement plays a major role in cognition and memory. Books such as *How People Learn*, NAT'L RESEARCH COUNCIL, HOW PEOPLE LEARN: BRAIN, MIND, EXPERIENCE, AND SCHOOL (John D. Bransford et al. eds., 1999), played a large role in the movement, as did insights from other areas of professional education. See, e.g., Alan M. Lerner, *Using Our Brains: What Cognitive Science and Social Psychology Teach Us About Teaching Law Students to Make Ethical, Professionally Responsible, Choices*, 23 QUINNIPIAC L. REV. 643, 643 (2004) (using social psychology and cognitive science to demonstrate why traditional legal education must evolve); Paul R. Tremblay,

lawyers, prosecutors, or law-makers so that they may experience law as a tool to accomplish underlying goals, such as private ordering of economic relationships through contract law, redress and deterrence of harm through tort law, challenge of government action in criminal defense or administrative proceedings, or punishment and deterrence of wrongdoers through criminal law. Exposing and considering law as a tool to accomplish other goals opens students' perspectives to the underlying policy and normative considerations. Done well, experiential education helps students cultivate judgment, assess risk in the face of uncertainty, and uncover moral and ethical considerations implicit in legal practice. Exercises as simple as interviewing and counseling a client can be used to achieve multiple pedagogical goals. They can expose gaps in a student's understanding of legal doctrine, provide a context for assessing the role of the lawyer in achieving the proper balance of power and responsibility between the lawyer and the client, and provide an opportunity to cultivate judgment.¹¹

Experiential education presumes that there should be no tension between teaching theory and practice. On the contrary, teaching law through a practical exercise is an effective method to cultivate a deeper legal understanding and encourage individual development of skills, values, and judgments. In addition, by engaging students actively in their own learning, experiential education stimulates creativity and aids in the development of professional identity.

II. CHINESE LEGAL EDUCATION

Chinese legal education begins at the undergraduate level. The Chinese government largely mandates the curriculum. In the words of Professor Chen:

Traditional Chinese legal education consists of the teacher being the protagonist, the lecture hall as the emphasis. Students have not received an understanding of how the law in fact operates in the real world. Furthermore, students have no practical or concrete skills in using the law in a real and ever-changing society.¹²

Interviewing and Counseling Across Cultures: Heuristics and Biases, 9 CLINICAL L. REV. 373, 373 (2002) (taking a cultural, anthropological viewpoint towards clinical legal education); Carrie Menkel-Meadow, *Forward. Telling Stories in School: Using Case Studies and Stories to Teach Legal Ethics*, 69 FORDHAM L. REV. 787, 787-88 (2000) (exploring literary viewpoints as didactic tools for clinical legal education).

11. See Peggy C. Davis, *Experiential Legal Education in the United States*, in SOCIAL RESPONSIBILITY AND LEGAL EDUCATION (Takashi Maruta, ed., 2006) (discussing experiential education); Carrie Menkel-Meadow, *To Solve Problems, Not Make Them: Integrating ADR in the Law School Curriculum*, 46 SMU L. REV. 1995, 1995-96 (1993) (arguing for experiential alternative dispute resolution to teach students creative problem-solving, ethical responsibility, and the relation of legal theory to legal practice).

12. Jianmin Chen, *Editor's Introduction to THE TEXTBOOK OF PRACTICAL LEGAL EDUCATION*, *supra* note 9, at 9.

Chinese law students and faculty rarely engage one another interactively, and “thus, students lack opportunities to question or think critically about what they are learning. Reports and studies on legal education in China have criticized the traditional emphasis placed on memorization of black-letter law over critical reasoning and the ability to analyze and solve problems”¹³

While such teaching methods lead to deeper learning at a number of levels,¹⁴ most Chinese law students report they are boring. Such methods fail to develop creativity, to foster the development of a legal identity, or to expose the practical dimensions of legal work. One study of the educational strategies used in China revealed that “in both Western and non-Western classrooms deeper learning outcomes are associated with students feeling that they are involved in their classes, supportive teachers, and a fair work-load.”¹⁵

It was not our goal to overhaul completely the traditional teaching methods of China’s legal education with these Roundtables. There are many positive aspects of China’s traditional education. However, the major drawback is that such education places too much emphasis on legal theory and knowledge and does not draw students into learning from their own experience.

In his preface to *The Textbook on Practical Legal Education*, Tsinghua Law’s former Dean Wang Chenguang identifies several reasons why legal education in China has not adopted an experiential learning component. First, there is no consensus view in China on the purpose for legal educational institutions. There is ongoing debate whether they are liberal arts programs or professional schools. Second, law schools have no pedagogy to teach students about the legal profession and to impart the “feeling, understanding, or sense of the law accumulated through real legal practice.” Third, civil law tradition adheres to codification, which is built on principals, doctrines, and a logical system of norms, which composes most of the law school curriculum in China. Fourth, many law teachers have no legal experience themselves. Last, and perhaps most important, Chinese legal education follows traditional teaching patterns that place the teacher at the center and relegate the students to subordinate and passive positions. “[Chinese legal education] has seldom put students at the center for creative and critical study by using their hands and minds in real or simulated social contact.”¹⁶

13. Pamela N. Phan, *Clinical Legal Education in China: In Pursuit of a Culture of Law and a Mission of Social Justice*, 8 YALE HUM. RTS. & DEV. L.J. 117, 127 (2005).

14. Mei-Yung Leung & Xinhong Lu, *China’s Learning Curves*, AMERICAN SOC’Y OF ENG’G EDUC. PRISM MAGAZINE, Apr. 2008, at 55, available at http://www.prism-magazine.org/apr08/tt_03.cfm.

15. David Watkins, *Learning and Teaching: A Cross Cultural Prospective*, 20 SCH. LEADERSHIP & MGMT. 161, 170 (2000).

16. Chenguang Wang, *Preface to THE TEXTBOOK OF PRACTICAL LEGAL EDUCATION*, *supra* note 9, at 7. Some attribute the central role played by the professor to the influence of Confucian tradition. Another such influence may be a difference in understanding the role of law in restraining government. See Jay Pottenger, *The Role of [Clinical] Legal Education Reform in the People’s Republic of China: Chicken, Egg,—or Fox*, 6 INT’L J. CLINICAL LEGAL EDUC. 65, 65 (2004) (“For Confucians, the best way to achieve social order was not

To be sure, however, experiential education has a foothold in China. Since 2000, the Ford Foundation has worked to establish legal clinics at law schools throughout China.¹⁷ To date, there are 119 member law schools in the Committee of Chinese Clinical Legal Educators (CCCLE),¹⁸ a small portion of the 700 Chinese law programs, including faculties or departments. While many of these clinics train students using experiential techniques, the use of these methods has not yet migrated into the mainstream of Chinese legal education. Moreover, opportunities to participate in these clinics are limited to a very small number of law students. Accordingly, “legal clinics remain a sort of luxury item, regarded by Chinese law schools as much less important than the courses required for graduation.”¹⁹ Though available in eighty-two law schools with over 130 different course topics offered²⁰ as of 2010, clinical education nevertheless remains a new and developing method of studying law in China.²¹

China has made great strides in introducing a modern body of law and legal institutions over the course of the past thirty years. In the process, it has also raised the legal awareness and expectations of its citizens. Yet the country still faces major hurdles in enforcing laws, establishing an independent judiciary, and facilitating the access of ordinary citizens to the legal system.²² It also needs more lawyers. According to a recent white paper published by the Chinese government, China has passed 299 laws and thousands of regulations in the last three decades.²³ With this unprecedented development of a legal system comes a great need for lawyers that is likely to continue. China now has more than 140,000 legal practitioners.²⁴ By comparison, the U.S. has more than 1,180,000.²⁵

via [traditional law with rewards and punishments] but through ‘the LI’ (a set of rules of behavior and rituals teaching propriety in social relations, usually shown by exemplary conduct of those duty bound to set examples for others).”).

17. For a general discussion of the Ford Foundation Clinical Initiative in China, see Pottenger, *supra* note 16. There are other U.S.-based programs encouraging the development of clinical and experiential education programs in Chinese law schools. A notable effort is Pacific McGeorge’s Institute for Legal Infrastructure, which sponsors a five-school consortium led by Professor Brian Landsberg. The consortium includes American University, Washington College, and three Chinese universities.

18. Committee of Chinese Clinical Legal Educators, <http://www.cliniclaws.cn/> (last visited Aug. 3, 2010) (on file with the *McGeorge Law Review*).

19. Phan, *supra* note 13, at 141.

20. China Legal Publicity, Experiential Legal Education Conference, http://www.legalinfo.gov.cn/pfzx/content/2010-06/20/content_2173959.htm?node=7894 (last visited Aug. 3, 2010) (on file with the *McGeorge Law Review*).

21. Alison W. Conner, *China’s Lawyers and Their Training: Enduring Influences and Disconnects* 12 (Sept. 15, 2009), available at <http://ssrn.com/abstract=1433602> (unpublished manuscript) (on file with the *McGeorge Law Review*).

22. Phan, *supra* note 13, at 125 (quoting John M. Burman, *The Role of Clinical Legal Education in Developing the Rule of Law in Russia*, 2 WYO. L. REV. 89, 100 (2002)).

23. *White Paper: China Establishes Modern Legal System with 229 Laws*, CHINA DAILY, Feb. 28, 2008, http://www.chinadaily.com.cn/china/2008-02/28/content_6494035.htm (on file with the *McGeorge Law Review*).

24. *Lawyers Play Bigger Role in China’s Parliament*, CHINA DAILY, Mar. 14, 2008, <http://www>.

Thus, in the United States, there are over eight times the number of lawyers for less than one quarter of the population.

Despite this need, most students enrolled in Chinese law schools do not become lawyers, nor do they aspire to. A recent article cited statistics showing that less than fifteen percent of law graduates from Tsinghua Law end up working in the legal field.²⁶ Rather, they choose more prestigious careers, such as working in local or national government posts, mainly because such positions are not as competitive as trying to reach partner at an established law firm. In general, “civil servants have much more security and a more collaborative and relaxed . . . work life.”²⁷ Even those law students who aspire to become practicing lawyers may not be able to find work because many people in China cannot afford to hire lawyers.

For those law students who do end up practicing, their experiences in law schools do not prepare them, particularly in terms of practice skills. The current curriculum of China’s law schools offers few courses to teach students how to become lawyers, and few professors know how to teach such courses. For that reason, our workshops began by training law professors to use experiential education methods and to teach their students through experiential methods. Educating to assist in the formation of a legal identity, aptly identified in the recent Carnegie Report as essential to effective law school training, is largely absent in law schools in China, except in modest ways in legal clinics.²⁸ We hoped to address this gap in China through our Roundtables.

III. DESIGN OF THE ROUNDTABLES

Each Roundtable was conducted experientially. That is, there was little lecture and nearly all the time was devoted to demonstrations of experiential teaching techniques with the Chinese and U.S. faculty as students. The sessions were conducted in English or Chinese, depending on the speaker, with simultaneous translation. The Chinese law faculty contributed enthusiastically to

chinadaily.com.cn/china/2008npc/2008-03/14/content_6538255.htm (on file with the *McGeorge Law Review*).

25. American Bar Ass’n, National Lawyer Population by State (2009), available at <http://www.pdf-finder.com/American-Bar-Association-National-Lawyer-Population-by-State.html> (on file with the *McGeorge Law Review*).

26. Note, *Adopting and Adapting: Clinical Legal Education and Access to Justice in China*, 120 Harv. L. Rev. 2134, 2144 (2007) (citing Chen Hongwei, *Re zhao sheng leng jiu [Hot Student Enrollment, Cold Employment]*, ZHONGGUO JIAO YU XIN WEN WANG [CHINA EDUCATION NEWS WEB], Feb. 5, 2007, http://www.jyb.com.cn/jy/jyzd/zyhq/t20070205_64372.htm (on file with the *McGeorge Law Review*)).

27. Erie, *supra* note 6, at 82.

28. Phan, *supra* note 13, at 125–29. In the Carnegie Report, U.S. law schools are exhorted to “mediate between claims for legal theory and the needs of practice, in order to do justice to the importance of both while responding to the demands of professional responsibility. Law schools face an increasingly urgent need to bridge the gap between analytical and practical knowledge, and a demand for more professional integrity.” SULLIVAN ET AL., *supra* note 1, at 12.

every session. The Roundtables were lively, participatory, humorous, and inspiring. The role of our Chinese colleagues as full partners in the planning and presentation of the Roundtables resulted in their full and sustained participation. Professor Chen chose excellent groups of young, adventurous Chinese faculty who were open to new ideas and eager to learn. Dean Wang Chenguang opened the first Roundtable with a moving talk, emphasizing the importance of this effort to the training and development of a mature and sophisticated legal profession. Temple Law School's former Dean Robert Reinstein, the architect of Temple's Rule of Law initiatives in China, presented the opening talk at the second Roundtable. In that address, he described the impact of his law school clinical experiences on his personal professional development. Professor Chen took many opportunities to comment during the programs to suggest how the techniques presented might be successfully adapted to Chinese law classrooms. Her comments provided an important nexus between the presentations and their potential use in Chinese law classes.

IV. CONTENT OF THE ROUNDTABLES

Each Roundtable consisted of illustrations of experiential teaching methods such as demonstration role-plays with class critique, continuous multi-class simulations with in-class and out-of-class exercises, short in-class exercises, small group exercises with reporting to larger group, media presentations including PowerPoint and DVD, out-of-class role-plays with DVD assisted debriefing, real time demonstrations with debriefing, and hypotheticals with group discussion. The first Roundtable consisted primarily of U.S. faculty-led demonstrations. Chinese faculty-led demonstrations primarily composed the second. The exercises focused on utilizing experiential methods to teach doctrine as well as legal skills. These presentations included both the exercises and debriefing methods.²⁹ Descriptions of such demonstrations will give a flavor of the conferences.

During the first Roundtable, Professor Carrie Menkel-Meadow presented a brief in-class exercise to illustrate the differences between negotiation, arbitration, and mediation as forms of conflict resolution. The class was instructed to break up into groups of four. Each group was asked to identify something that the group really wanted, such as a computer or a parking space. The exercise occurred in three parts. In the first part, each group negotiated briefly, in teams of two, over who should have the item. After a brief negotiation, one student from each group was chosen as an observer, another as an arbitrator,

29. See Eleanor W. Myers, *Teaching Good and Teaching Well: Integrating Values with Theory and Practice*, 47 J. LEGAL EDUC. 401, 408-09 (1997) (showing that debriefing from experience is an essential part of the learning process); see also Ann Juergens & Angela McCaffrey, *Roleplays as Rehearsals for "Doing the Right Thing"— Adding Practice in Professional Values to Moldovan and United States Legal Education*, 28 WASH. U. J.L. & POL'Y 141, 175-76 (2008) (advocating self-reflection for more effective debriefing sessions).

and the remaining two members of the group made arguments to the arbitrator about why each of them should receive the item. Finally, the observer and arbitrator changed roles, with the observer now becoming a mediator and the former arbitrator an observer. The same two team members then engaged in a mediation in which the mediator was instructed to facilitate a solution that the parties negotiated themselves. After the exercise, as Professor Menkel-Meadow was demonstrating how to lead the class into a deeper discussion of the relative merits of each process for resolving different types of disputes, Professor Chen jumped up and began to speak rapidly and enthusiastically in Chinese to her fellow Chinese faculty. In the moments after this exercise, she understood immediately and vividly how the exercise might be used in a Chinese class on Civil Procedure, and she proceeded to provide her colleagues with many examples of how they might adapt and use this exercise to enrich their teaching.

Professor Chen's comments were an implicit response to many of the roadblocks to experiential teaching previously identified by Dean Wang Chenguang in his opening address and echoed by some participants in the early days of the Roundtable. This exercise did not require the teacher to be an experienced lawyer, nor was it inapplicable to the civil law system that is the basis for Chinese legal education. It also did not require that the teacher either relinquish her position of authority or stimulate a major rethinking of whether law schools were liberal arts or professional institutions. Rather, it was simply a better way to teach what Chinese faculty were already teaching. It engaged the students in a richer and more concrete understanding of the doctrine and led them logically to consider the deeper questions of institutional competence, the skills to be developed to participate in each process, and the goals, justice, and fairness of each dispute resolution mechanism.

Another powerful moment occurred after a teaching demonstration by the Chinese faculty. During the first Roundtable, the Chinese faculty met in working groups, organized by subject matter, to plan teaching presentations for the final day. The civil law group made plans to present three different exercises related to various aspects of Chinese civil law. One day prior to their planned presentation, a member of the hotel staff interrupted the Roundtable to announce that the car of one of the Roundtable participants had been hit and slightly damaged by another car in the hotel parking lot.

This announcement occurred immediately after a real-time demonstration.³⁰ In an exercise familiar to teachers of Evidence, we staged a dramatic event to demonstrate the unreliability of eyewitness testimony. Professor Menkel-Meadow's husband came rushing into the room demanding that she give him his

30. The staged demonstration included Professor Menkel-Meadow's husband rushing into the room and attempting to grab Professor Menkel-Meadow's purse to obtain his medicine. The real incident involved the damaged car in the parking lot. The staged demonstration and the real incident occurred almost simultaneously, hence the interwoven narrative.

medicine as he tried forcibly to grab her purse. She responded “no, no, no.” (We briefed the translators prior to the exercise to stop translating, so we kept the spoken words to a minimum.) At that point, Professors Moliterno and Tremblay restrained him and escorted him from the room. After that, Professor Menkel-Meadow debriefed the group about their recollections of various details of what happened. As is always true, the descriptions differed dramatically from one another.

When the hotel announced the damaged car problem, many Roundtable participants doubted that the announcement was real, thinking it might be the start of another exercise. Due to the coincidence of timing, interest ran high about the outcome of the car negotiations. After several hours of negotiation with hotel staff, the Roundtable participant was awarded compensation for the damage to her car.

This incident, which engaged the interest of all, became the basis of the exercise presented by the civil law group the next day. They tossed out all other plans and spontaneously decided to create an exercise based on the damaged car and the subsequent negotiation, working through the evening to develop and perfect it. When they presented it, everyone was particularly engaged because of the previous day’s dramatic developments.

This chain of events vividly illustrated the power of using common shared experiences as the basis for creating memorable and effective experiential exercises. It worked as well as anything we had formally planned.

The second Roundtable included Chinese faculty presentations of wonderful exercises from a Jurisprudence class, using an excerpt from Franz Kafka; from a civil law class on Contracts, using a family’s frustrated attempts to obtain relief from the belching smoke of an adjacent factory (which had been concealed from them when they negotiated their lease); and from a Criminal Law class, using a scene from a familiar Hong Kong gangster movie. Another problem related to the pressures experienced by families whose children take the entrance exam for university admission.³¹ In this exercise, based on a real situation, a student’s parents falsely listed the student as a member of a Chinese ethnic minority group in order to gain the extra points added to the exam scores of such minorities. After the discovery of the false application, the student was barred from enrolling in any university because of his parents’ conduct, even though he had earned the highest exam score in his province. The exercise focused on the student’s legal efforts to be admitted to a university.³²

31. Gareth Davey et al., *The University Entrance Examination System in China*, 31 J. FURTHER & HIGHER EDUC. 385, 385 (2007).

32. For more information on the problem of rampant cheating in Chinese educational institutions, see Elizabeth Redden, *Policing Plagiarism Abroad*, INSIDE HIGHER ED, July 27, 2010, available at <http://www.insidehighered.com/news/2010/07/27/china> (on file with the *McGeorge Law Review*).

The exercises demonstrated by Chinese law faculty, based on contemporary Chinese experience and media were effective, engaging, and stimulating. The demonstration classes incorporating these exercises were as skillfully taught as any we might hope to see at our own law schools.

V. EFFECTIVE COLLABORATION

The success of the Roundtables was due in major part to the effective collaboration between Professors Chen and Myers. In describing his international collaboration experiences, including his experiences at these Roundtables in China, Professor James Moliterno said:

In the parlance of our times, these projects are meant to build “local capacity.” . . . Leaving new courses behind that belong to the local professor, leaving behind teachers with new classroom techniques and teaching materials All meant not merely to provide some one-time service, nor to be a single-serving friend, but instead to leave new local capacities.

How? The keys seem to be collaboration in teaching and learning, not merely providing information and material or simply teaching. Time after time, collaboration produced something sustainable³³

Finding the right partner with whom to develop joint programs is essential.³⁴ We developed the idea for these Roundtables in continuous collaboration with our Chinese partners. Temple’s Rule of Law program in China is conducted with Tsinghua Law in Beijing, where we have a deep and enduring relationship with Dean Emeritus Wang Chenguang, Dean Wang Zhenmin, and many of the faculty.³⁵ From the outset, Dean Wang Chenguang was fully supportive of this effort and identified Professor Chen as the ideal co-chair. Professor Chen had extensive experience in developing clinical legal education in China and had also been a participant at many international conferences on legal education.³⁶ Additionally, she was an experienced doctrinal teacher and she had a wide

33. James E. Moliterno, *Exporting American Legal Education*, 58 J. LEGAL EDUC. 274, 277 (2008).

34. Sam Blay et al., *Adventures in Pedagogy: The Trials and Tribulations of Teaching Common Law in China*, 15 LEGAL EDUC. REV. 137, 142 (2005).

35. Temple Law School’s relationship with China dates back to 1979, when it awarded an honorary degree to Deng Xiaoping. A cooperative agreement was signed in 1999, and in 2001, formal collaboration between Temple Law School and Tsinghua Law School was initiated. Since then, over 800 Chinese legal professionals, judges, and government officials have been educated as part of Temple’s cooperative programs, which include L.L.M. classes, non-degree judicial education programs, and international educational exchanges like the Roundtables.

36. Professor Chen has since been appointed Secretary General of the Chinese Committee for Clinical Legal Education. She is also the Director of the Beijing Civil and Commercial Law Center and the Director of the Beijing Labor and Social Security Legal Society.

knowledge of the legal educational landscape in China, which enabled her to choose a diverse, open-minded, and flexible group of Chinese law faculty to attend the Roundtables. In all, thirty-six law professors from thirty-five law schools located in nineteen Chinese provinces attended the Roundtables.

Professor Chen's input was also essential in choosing the training materials. For example, all cases used in the second roundtable were local cases or U.S. examples revised to reflect realistic Chinese situations. In addition, her selection of participants from diverse backgrounds assured that some of them were good speakers who could perform different characters in the demonstrations. The excellent quality of faculty who were chosen to participate was a major reason for the Roundtables' success.

VI. CONCERN FOR DETAILS

It is daunting to run international conferences in China from the United States. It requires attention to many details and is itself an education in Chinese culture.

Choosing appropriate sites for the Roundtables posed unexpected challenges. We were told that if the sites were too close to competing attractions, such as downtown Beijing, the participants might skip out for some sightseeing. Consequently, we looked for sites outside the central part of the city. One such site turned out to be over two hours from the heart of Beijing, in the middle of an otherwise deserted landscape. Moreover, it was vast, requiring a monorail to travel between buildings. We knew we needed breakout rooms, but until visiting proposed sites, we did not realize that such rooms could be located more than a twenty minute walk or a monorail ride from the main room. We chose to hold our second Roundtable in Qingdao, a smaller coastal city where facilities had been recently upgraded for the Olympics. This proved to be an excellent choice, as the clear air and high level of service at the hotel made for a very pleasant environment.

We also elected to conduct the Roundtables in Mandarin, in order to reach the broadest possible group of Chinese faculty participants. We knew that doing so presented the problem of the so-called "presentation by proxy." That is, it might matter less what we said and more what the translators said.³⁷ We addressed this issue in several ways. First, we hired excellent translators.³⁸ We

37. In reading about the experiences of another joint education program that had tried this strategy, we saw they had particular difficulty in translating phrases for which a Chinese dictionary "does not offer a specific equivalent," such as "cyber forensics." Such problems can lead to a great deal of frustration for the teachers, translators, and students as they all struggle to convey or comprehend the meaning of a phrase with no discernible linguistic equivalent. Blay et al., *supra* note 34, at 152-53.

38. Zhu Weiyi, formerly an associate at the Jun He law office in Beijing, translated for the United Nations Development Organization in Vienna. Jenny Tong has been a longtime active member of the International Association of Conference Interpreters.

also chose to provide simultaneous translations because we desired to engage the participants in interactive exercises. The delay entailed by consecutive translation would have detracted from the momentum and teaching rhythm we hoped to establish. Moreover, we were blessed with two incredibly able assistants who aided us in every aspect of the planning and execution of these Roundtables. John Smagula, Temple Law's Director of Asian Programs, and Lan Rongjie, then an S.J.D. student at Temple, both lawyers and accomplished speakers of English and Mandarin, were invaluable to the success of these Roundtables.

They oversaw the translation of all the conference materials,³⁹ provided translation of emails and meetings, and monitored the translations of the Roundtable proceedings to clarify matters whenever the translators confused things or failed to provide a full context for comments.

There were wonderful moments when participants began to talk to each other excitedly in Chinese, losing the translators with their speed, enthusiasm, and cross-talk. At those moments, John and Lan reassured us that the discussions were productive and provided us the gist of what was being said. Moreover, since the purpose of our program was to enable our audience to learn by doing, there was much learning that required no translation, as the participants engaged in exercises and learned from their own experiences.

There were several amusing complications that arose from the use of translators. The first was the amount of equipment and housing required to accommodate them. At the first Roundtable, we had not planned on devoting such a large space in the main conference room to their needs, which required a lot of last minute rearranging and nearly disrupted the opening banquet. Moreover, the equipment was very valuable, so the translation company insisted that the technician be in the room at all times to guard the equipment against theft or vandalism. It was unsettling to have someone sleeping in the main conference room, and we tried to include him in all our meals and to give him breaks when possible. This required a good deal of cajoling, as he seemed to feel that such fraternizing was inappropriate.

Each conference participant and speaker was required to wear a headset and to use a microphone to enable the translators to hear and provide the translations simultaneously. It took many reminders to be sure that all participants used the equipment properly. Complicating matters, the company assumed our conference would be presented in the usual format, with a group of speakers at the front and two mobile microphones for questions from the audience. Therefore, it provided mostly stationary microphones and very few portable ones. It was a special challenge to accommodate the level of desired participation and match speakers

39. For each roundtable, we prepared a large compilation of materials in both English and Mandarin Chinese including written syllabi, teaching materials—such as exercise instructions and teaching guides—and readings from the scholarly literature regarding the theory and practice of experiential education and the elements of effective debriefing. These materials were given to each participant in hard copy and electronic versions on thumb drives.

with microphones since we had a limited number of portable microphones. Nonetheless, the shortage of appropriate microphones had a positive effect, too. It encouraged movement, as speakers passed the microphones around and cajoled each other to use the equipment properly. It also fostered a level of informality and intimacy, which served to enhance the overall program. That benefit was not enough, however. For the second Roundtable, we remembered to request only portable microphones.

To facilitate small group discussion, we wanted the main conference room to be set up with actual round tables. The hotel personnel used this set-up only for banquets, and it proved difficult to convince them to maintain the tables in this configuration. Each day, we reminded them not to return the room to an audience-style arrangement. After that, they gave up trying to keep the room clean because the set-up was so baffling. Therefore, every morning, a group of us came early to clean up the room and reset the tables. At the second Roundtable, no such extra cleaning was necessary, as the hotel provided a high level of service and followed our instructions exactly.

VII. WHAT'S NEXT?

At the second Roundtable, six groups of Chinese faculty presented sample classes incorporating experiential techniques. The sophistication of most of these presentations was remarkable. Many faculty reported using these techniques regularly in their classes. Additionally, during the evaluation and wrap-up session, several participants asked for time to speak to urge us to expand these efforts to all the provinces by means of regional conferences. They asked important questions about motivating students beyond the test⁴⁰ and encouraging more of their students to become practicing lawyers.

Any effort to change the fabric of legal education in China requires a sustained and continuing effort. Our future plans include conducting additional regional trainings, expanding the number of participants, establishing a circuit system to observe and supervise each school, sending experienced American experts to Chinese law schools, and publishing more subject-specific textbooks in the major subjects taught at all law schools.

The Chinese participants plan to organize themselves to continue these efforts and to encourage others to use the *Textbook on Practical Legal Education*. They also plan to develop additional exercises and a series of subject-specific textbooks incorporating experiential exercises and detailed instructions for using them. On the U.S. side, we will seek funding to continue to present these Roundtables on a smaller regional scale. We have already made a very promising start. It seems clear that the Chinese faculty are enthusiastic about

40. Davey et al., *supra* note 31; THE TEXTBOOK OF PRACTICAL LEGAL EDUCATION, *supra* note 9, at 394–95.

adopting experiential education methods, and the Chinese law students are welcoming them. Moreover, the insights that these Roundtables have provided to U.S. faculty on Chinese culture and legal education have been thoroughly stimulating and rewarding.

* * *