



MRI FORUM 16

Changes in Legal Education in China

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What I want to present to you this evening is the 13 points on Changes in Legal Education in China that I've observed in my teaching over the last few years, when I have been there. In the outline that was presented to you on the website, each of those points was laid out. It is a hot evening, so what I propose to do is to gallop through those points with the speed and sensitivity of Genghis Khan; so that we begin from the beginning and go rather quickly to the end. I will just speak very briefly. If you find that my lack of sources troubles you a little, I have bought the magic machine (my computer) with me and I can check to backup to the things that I say. But just for the moment, we will hold the level of discussion very generally, and afterwards, or by e-mail, I'm willing to justify the remarks that I make.

1. Expansion of teaching of law to around 300 schools

The first point I want to make is that there's been a huge expansion in law teaching in China over the last decade or so. Law is a hot subject for the students in China. There are now something like 300 hundred law schools in China, either as independent schools or as departments of universities, specific departments of universities. Now you could hardly imagine that when I first went to the mainland in 1975 to meet some law workers, we were told that the legal system had been basically abolished and lawyers were out of the windows. So who could imagine, who could predict 30 years ago, that there would be more than 300, the number must be expanding day by day, more than 300 law schools or law departments, or courses in law in universities in China.

The quality of course may vary. In China this is not just the situation of law but of Chinese universities in general. The best of Chinese universities I

understand can be classed among the best in the world. The worst of China universities, I also understand could be classed among the worst in the world. So there's a huge range in the offerings of universities.

2. Merger of soviet-style specialist colleges, and development of more comprehensive universities

How has that been achieved? One of the methods is a change in the educational model, and this applies not only to law but also to other disciplines as well. For a long time, the educational structures - the institutes - followed the Russian model. There were few comprehensive multidisciplinary universities. Most institutes, most training institutes, were focused on a single discipline or at most a few related disciplines. This, I understand, was the influence of the soviet model. Some of those institutes could be attached even to a single large factory or large industry or something like that, and the institute operates within the planned economy. The factory predicted that in so many years time it will need 24 more (say) metallurgists, so the university began now to recruit the proper number. These students go through the course, come out of the other end, and are sent to the factory - assigned to their work - 24 new metallurgists.

On the other hand, the way law is now growing is in a different system altogether, the soviet-style institutes are being modified, many of them being merged into multi, new multidisciplinary universities or being merged with other existing universities into mega universities. Some of them are simply huge. This development is away from the specific institutes into the comprehensive universities.

3. Emergence of Legal Aid in Chinese Universities

The third point I wanted to make among my list was the emergence of legal aid in Chinese Universities and I'm happy to say that you can read all the details in here [indicating Volume 2 No. 2 of the journal of *Chinese Cross Currents*]. I need to get 2 minutes now. I'm happy to say that what legal aid there is in China actually began in China universities. The state system is perhaps 10 years old, but last year the Northwest Institute of Politics and Law (where I have been teaching, but I take no credit for this) is celebrating its 20th anniversary of its student legal service program, and it has been offering legal information, legal education, and even support in specific cases for nearly 20 years involving thousands of students in different ways. So that's something where many of the non-governmental legal aid institutions can be found in, or associated with, universities. That's something which if you want I will be

very happy to talk some more about, if you wish. These legal aid services operate in parallel with the state structure of legal aid.

4. A change in traditional teaching methods: the introduction of clinical legal education

Traditional teaching methods are still largely in place. Teaching still largely consisted of the teacher speaking to the students, a set textbook is used and if the teacher is not very good he or she simply reads from the text. If the teacher is better, they can provide some practical commentary on the text. The process of preparing students for examination by this way is described as “stuffing ducks”. You know how ducks are stuffed for the restaurants, and so students and teachers see it that way. But there are some wonderful exceptions; first, some of the teachers themselves try much harder, try to do much better than that. But second is the introduction of some new teaching methods, particularly in the area of clinical legal education. I’m not sure if you familiar with this as a concept that the lawyers are adapting from medical education; that is, to send the students to look at the real patients (or in this case, real claimants) and so the students are involved clinically in a supervised manner with actual cases. It’s not just a different kind of legal aid, because this a specific teaching programme, attached to this kind of clinical education. Initially this teaching style has been sponsored by the Ford Foundation, but universities themselves are becoming more and more interested in this style of teaching or at least other methods of practical legal training. I think they are trying to respond to the market so that they produce graduates able to practice and not simply able to talk theory. But clinical legal education itself potentially carries a possibility of students working to aid the poor.

5. The professional Master degree

Another change, again influenced by the United States of America, is the development of the professional Master degree. In China, law is a first degree. When you graduate from school, you can go to university, and take law as your first degree, That’s also the same for most of Australia. It’s not the same in the Philippines or the U.S.A. So what some universities have done - quite a number at this stage, I think something like 20 - have developed a program to attract graduates to return to study law, modern on the American *Juris Doctor* degree, the JD. The Ministry of Education wouldn’t let them call it a doctorate, so in English - really in Latin - they called it the *Juris Master* degree. And this is the *Falu shuoshi*, 法律硕士, as suppose to the more conventional *Faxue xueshi*, 法学硕士, the more conventional Master degree for

those working up the academic tree. It's a first degree in law for those who already graduated in another discipline. So I had the pleasure this last academic year in the first semester teaching the academic Masters but in the second semester teaching the professional Masters and that was a good experience for me. I think just another aspect of the growing professional orientation of legal education in China, and also a growing sensitivity to the job opportunities which might be available for graduates after they passed out of the university.

6. The Unified Justice Examination and its influence on teaching

The big test for those studying law is the Unified Justice Examination. This is an examination, which is taken by those wanting to enter the profession of lawyer, the profession of judge, or the profession of procurator. And they all have to pass a common examination. In 1986 the standard law examination was set up: that was a lawyers' qualification examination but this was merged in 2002 into a single unified examination.

That examination has a very low pass rate, and is much more significant for the student than the degree. The degrees usually have a quite high pass rate, up to 100%. Thus, passing the Unified Justice Examination feeds back into the teaching program in a number of ways.

First, if you are the students are preparing for that examination which is held this year in September and basically even if you start teaching in August, don't expect to see them, until it's over. No matter how keen they are to hear what you have to say, they're busy. Second, the institute itself would some extend be judged on its academic performances on the ability to get it candidates through Unified Justice Examination. And the third point is that the students actually come to expect that the law degree will in some way help to prepare for the examination. The examination thus feeds back, it's feeding back into the course planning or the expectations of the students when they take the law courses. It's not necessary a bad thing, by the way.

7. Law teachers and professional practice

The next area which I have observed is that by and large the practice of lawyer is meant to be a full-time practice. Part-time lawyers are being gradually eliminated from the lawyers' profession. The exception is the law teachers, who are able to practice law. Usually you'll find on or near the campus of the university, a law firm with a very large membership of all of the law teachers of that firm as part of professional practice. However, this

creates two teams of academics; there are those academics who just teach, for whom the salary rewards are not wonderful, and those academics who can combine with practice for which the financial rewards can be greater - sometimes much greater - than for those who teaching.

So, of course this is a big temptation for those lawyers who can practice to put quite a lot of time into their practice. So the law schools themselves have a dilemma: you want to hold the teachers who can bring their practical experience to bear into teaching, but on the other hand, to somehow limit their amount of time that they can spend in their practice. That question is not limited to China, either in law schools, and in medical schools as well. But it's a new problem in China.

8. The teaching of legal ethics

What has interested me over the last few years is the teaching of legal ethics in China. At the undergraduate level there is very little. Most students take in the first year a whole set of compulsory courses; one of which is *ideology, ethics, and politeness*. So, those courses along with politics and other compulsory courses such as military service, take up a significant proportion of the first year. But apart from that, legal ethics is not yet a growth area in China. I'm only aware of one law school which teaches it as an optional subject. But it's beginning to enter into courses like a clinical legal education where (particularly under the influence of the American model) seeking to inculcate into the students, some techniques for identifying and dealing with ethical problems as they come up. Most students will not really face the question of ethics as separate subject until they come to the Unified Justice Examination, where there are always questions on professional lawyers, judges, and procurators' ethics, not very many, but they are indeed always there.

9. Electives and credit points

The next point that I'll make is in rather a random order. I'm sorry, but jumping from one point to another will keep you thinking a little. In the soviet model, when (say) you had the department asking for so many engineers for that particularly department, they went in, one end of the course and came out the other. That meant that the course often had no internal choices. What's happening in Chinese law schools (as well as in other disciplines) is an increasing range of electives so that students may choose among different subjects that will be course subjects and then the calculation of the electives towards the degree by means of credit points. I can't tell you

how many points you need to get the degree. It might vary from institutes to institutes; I could look up the handbook of Northwest Institute to let you know, at least what it is there. But at least, there is now a system different from the old days: a system of credit points and electives. What they don't seem to have come to yet is transferability, that is, portability from one institute to another. It's seems this no way if your family transfers from one city to another, to actually transfer credits to another university, at least not that I know.

10. The proliferation of institutes within universities

Within universities, there are an increasing numbers of institutes. Now, this 's maybe just a room, sometimes a sign on the door, or somebody else's door. There's nothing usual about this, isn't it, in universities anywhere. But some of these institutes do have some funding and focus on particular areas of law for the benefit of the teachers who wanted to focus in research or in teaching in that area. So that, you'll be able to find now, as I did, that there's an institute of international humanitarian law at Renmin University in Beijing. I discovered just before leaving that my own institute in Xi'an has an institute of human rights law. I didn't actually know that - it would have been interesting to know when I was on the spot teaching human rights law, but communications within universities is hardly their strong point. But for making contacts with the universities now, rather than look for universities in general, someone might find it better to look into the long list of the institutes that maybe available. They might represent the particular interest of the strong professor, particular someone who is able to get their own funding. I recently gave a talk at the China University of Politics and Law in Beijing in the Institute of International Human Rights Law and International Humanity Law. I think they get their funding through the Nordic countries in some form or another.

11. The proliferation of legal websites

There is a huge number of legal websites. I myself come from a past era, I would much rather go to bed with a good book than with my computer, but the Chinese are taking extremely rapidly to the computer age, and there are now something like a hundred thousand registered websites. I believe there is a hundred million netizens in China, and the number just grows exponentially. So along with this comes a huge growth in the number of websites. Really, to research Chinese law today, you just need to have some way of finding your way round the websites.

One of the difficulties is they are not always uniform in the code language that they use, and internal search engines of the websites may not be very good. So, try to search (say) as I did, the website of *Legal Daily* is enough to send you looking wondering where on earth are the back paper copies. For me with my very limited Chinese it is frustrating. Using general search engines like Google or Yahoo can be successful, but often not precise enough for the kind of work that I would want to do.

12. The use of foreign language in teaching specialist subjects

I taught my students using English. This was an interesting experience. I started my last semester with 91 students; I finished with 28, and 52 turned up for the examination! Of course in good condition, all 52 passed. (By the way, I gave them an open book examination.) Anyway, for all students in China as part of the graduation are to be certified in a foreign language. They have to pass certain band levels in a foreign language. The majority of students choose English as their foreign language.

In addition, the ministry of education recommends that universities teach normal subjects using a foreign language as the medium of instruction and so those students who could, would listen to my courses. I had the advantage to some extent of having also taught legal English in China, before I taught law. And so, I have some idea of what sort of level to expect. Some of my friends have gone to China and taught in a way which is much too quick and much too complex. I always give my little English revision before we actually got into law teaching.

13. The reduction in 中专 and 大专 law courses and institutes

I'll use the final two minutes getting through one point. There was traditionally - there is still - a series of educational levels in politics and law or in justice schools, training for the Ministry of Justices. And traditionally, one level would be upper secondary schools, upper middle schools with years 10, 11, and 12, or 10 and 11 of the schooling program. There were secondary schools, vocational schools, so you can do your vocational schools not just in technical subjects, but also in politics and law. And these were designed to turn out staff for the appropriate ministries, like the Ministry of Justice. Similar courses existed at the universities, which we might translate into English as associate diploma course, or associate degree courses. These would be two or three years of courses at tertiary level, or overlapping between late secondary and into tertiary, which are called 大专, these specialized courses are called 中专 for the middle school, and 大专 for the tertiary level courses.

These courses are gradually disappearing. The number of institutes offering such courses is disappearing by merging or by upgrading so that the courses are being upgraded from 大专 up to degree level.

One of the difficulties about this: students told me actually very hard to get a job now with an associate degree 大专, and that without a full degree, that is very difficult to get a job. And I think there may be an expression, I think is “degree inflation” in China where because so many people now have a bachelor degree, that there’s a pressure to get a master degree. So many more schools offering graduate programs, and so on.

There were the points that I want to make. There is another I can’t justify but I heard at lunch the other day and wanted to share with you. It came from Alison Conner, who is interested in the history of legal education in China especially during the republican period. She comments that a number of the universities in China now are seeking to rediscover their history, especially in teaching law. So for example, Qinghua University recently celebrated not the 10th anniversary of its law department but the 10th anniversary of the re-establishment of its law department, which did exist in the 20s. This search for the history has apparently led some schools to adopt the history of another university, even relying just on the fact that they are on the campus. So that one university is supposed to have said: “Our history included that of St. John’s University in Shanghai” (the former missionary university) even though that university was officially shut down and other universities took over the campus. But claiming the history is a kind of a new format: “developing ancestors”. But the point is that it speaks over the new climate for legal education in China. Legal education in China has had a particular trying time through the 50s and the 60s and the 70s and it is now being re-established through the 80s and the 90s and into this millennium and continuous to be a growth area. I hope that the graduates will continue to contribute to China and to its people.

For myself, it has been a great experience teaching in China, I’m happy to have this opportunity to share a few words with you, but this is a forum, not a one-way affair, so I’ll stop here [for the Question and Answer session]. Thank you.

