

The Rapid but Unbalanced Growth of China's Legal Education Programs

BY CHENGGUANG WANG

ABSTRACT

Legal education plays a vital role in the process of legal development in any country. Dean Roscoe Pound, while serving as consultant to Chinese Nationalist Government in 1948, stated that “constitutional politics needs law, and law needs as well systematic legal education. Without legal law, constitutional politics cannot efficiently operate; without systematically trained judges, administrators and jurists, law cannot make significant function either.”^[1] As China currently embarks on building a sound legal system and promoting rule of law^[2], the awareness of the legal rights of the people has been enhanced remarkably. As a result, legal education booms and law becomes one of the most popular subjects of university study. Some figures may give more concrete ideas of the phenomena. In 1977, there were only three law departments in China^[3] admitting a total of 223 law students.^[4] In contrast, by the end of 2005, there are 559 law departments and schools throughout China, which have bachelor degree programs in law. The total number of current students reaches 300000, including more than 200000 bachelor degree candidates and less than 10000 graduate students in various graduate programs.^[5] Taken the year of 2004 as an example, the annual enrolment of bachelor of law programs is 91920 students.^[6] In 1977, there is only one bachelor degree program. In 2005, there are various degree programs

such as programs of bachelor of law (LL.B.), Master of Legal Science, *Juris* Master (JM) and doctor of law (Ph.D.), plus other part-time programs leading to different types of degrees.

The rapid expansion of legal education in China is certainly a positive indicator of the achievement of the legal development amid the rapid and profound social transformation. Nevertheless, a Chinese proverb, which says that intention to be faster may delay the process, calls for caution. While the unprecedented expansion is contributing to the legal development in the country, it brings potential risks for further legal educational development. This article intends to analyze these risks and to make suggestions for future development.

BRIEF ACCOUNT OF HISTORY OF CHINESE LEGAL EDUCATION

In traditional Chinese society, legal education had never played a significant role. Although in scattered periods or dynasties, sporadic schools or educational institutes taught law through private teaching or apprenticeship with legal officials^[7]. Institutionalized legal education was nonexistent.^[8]

Starting in the beginning of the twentieth century, after being repeatedly defeated by foreign troops, the Qing government came to a rude awakening that acquisition of modern equipments



Dr. Wang Chengguang is the Dean of Tsinghua Law School. He has published many articles and books on legal theory, comparative law and the sociology of law. He holds an LL.M. from Harvard University and a Ph.D. from Peking University.

The rapid expansion of legal education in China is certainly a positive indicator of the achievement of the legal development amid the rapid and profound social transformation.

and materials could help little to save the country from declining. Reform minded intellectuals and officials realized that reform through the introduction of modern systems from the West was the only way out.^[9] As one of the most important social systems, building a legal system became the center of the reform. In 1904, modern legal education was first introduced into China when the Qing Government established Zhili College of Law and Politics (*Zhili Fazheng Xuetang*).^[10] In the 1920s, legal education flourished. In 1912, the number of schools of law and politics grew into 60 with 30,803 students.^[11] The heyday of legal education retreated quickly, however. In 1920, the number of law schools fell to 34, still taking 61.97% of the total 89 higher educational institutes in the nation.^[12] Due to constant domestic wars and the World War II, the various governments through out the period had never put legal construction as the priority in their social and economic development plans or took law seriously. Quite naturally, legal education after its initial boom declined quickly with little impacts on the society. In 1926, the number of law departments and schools in the country dropped to 25.^[13]

After the establishment of the People's Republic of China (PRC), the new government, composed of revolutionaries and war veterans, failed to give sufficient attention and efforts to building the legal system. Law was regarded as an instrument of class struggle, not an efficient means of social transformation. Instead, mass movement was the primary means of mobilizing the public and implementing the Communist Party's policies. During the first 7 years of the PRC, the government enacted the constitution and some statutes. Soon afterwards, the Anti-rightist Movement took place and changed the entire political atmosphere, making mass movement the most powerful means of social governance at the expenses of serious legal rules. Guided by this line of thinking, the reform of higher education in the first half of the 50s restructured law departments and

schools. In 1952, the number of law departments and school was reduced from 63 to 10 (4 institutes of politics and law and 6 law departments).^[14] It is a clear indicator of the place of law in the nation at the time. The teaching became mainly exegeses and interpretation of the Party policies and ideological doctrines. Since then, legal education has been pushed into the margin of higher education. In 1958, there were 8 law schools admitting 716 students in total.^[15]

Things were getting much worse during the “Cultural Revolution”. Then, all law departments and schools were dismantled except two and a half, namely the Peking University Law Department, Jilin University Law Department and a small law section in the Hubei Institute of Finance and Economics.^[16] The fate of legal education is only an iceberg of the entire catastrophe in China brought out by the “Cultural Revolution”. Literally, China was in a stage of fanatic lawlessness.

It was not until the end of the “Cultural Revolution” that the development of Chinese legal system and education begin to speed up. As previously mentioned, starting from the three law departments and several hundreds of students, law has become the most popular subject among young people. The pace of development is so fast, that even the Ministry of Education has no precise figures of the number of current law departments and schools.

REASONS FOR LEGAL EDUCATIONAL EXPANSION

Generally speaking, the rapid expansion of legal education is a positive phenomenon and a natural result of the call for building a sound legal system and rule of law in China. Its expansion is unprecedented compared to any part of Chinese history and has a profound impact on almost every aspect of the society. The success of its expansion is mainly due to domestic reasons, although not discounting the contribution

While the unprecedented expansion is contributing to the legal development in the country, it brings potential risks for further legal educational development.

and influence of foreign assistance. This distinguishes the Chinese legal educational development from that in many developing countries in the 60s and 70s. In those periods, a group of law professors and legal experts (mainly Americans) from developed countries went to developing countries to help build their legal education system and in turn their legal systems under the “law and development” movement. The movement did not fulfill the original purpose and was regarded as being frustrated or even failed^[17]. A reason for the setbacks is the “idealistic plans”^[18] of transferability of law without considering their native social conditions.^[19] The legal system the movement tried to build became a foreign system imposed from outside onto the native society. The legal education focused on foreign models and doctrines, which had little implication to the native people and students.

On the contrary, the Chinese legal system and legal education are promoted mainly by the domestic impetus and rooted deeply in the Chinese soil. The reasons are complicated. Here I just mention a few important ones.

1. It is a lesson achieved from past experience, especially from the social disasters of the “Cultural Revolution”, that law and legal system are indispensable to the society. Governing the country by law is the prerequisite for promoting Chinese social development. Deng Xiaoping officially expounded this view in his famous speech in 1978, which says “[i]n order to promote people’s democracy, legal system must be strengthened. It is imperative to institutionalize and legalize democratic system, to make the system and law maintained despite of changes of leaders and changes of leader’s views and focuses.”^[20] It soon became the popular view of the nation, which inspired the legal construction in the country. Max Weber’s approach of social evolution from charismatic governance to legal governance^[21] can be used to explain the inevitability of the advance of law and legal system in China. Without such domestic impetus and drive, the legal system could hardly take deep roots in the society. A Chinese metaphor may explain the phenomenon, which says that proper temperature may turn an egg into a chicken, but never a stone into a chicken. The genuine intention to establish a sound legal system and rule of law in

turn promotes the development of legal education.

2. Transition from planned economy into market economy has enhanced the role of law in the society and makes it the most practical and profitable career. This transition follows exactly from Henry Main’s famous description of modern legal evolution, which is “from status to contract”. In planned economy, every individual is placed into a particular position either as a driver or engineer by the government and almost every commercial transaction is the implementation of an economic plan. Under such a regime, legal rules have little function. In contrast, under market economy, according to Max Weber’s description, the market requires a legal system. In the market society, economic activities are predictable and calculable in accordance to rational rules and legitimate through the disintegration of all particularist status-determined or economic monopolies.^[22] Neutral and objective legal rules become the highest standards for all market participants and individuals. Law has shifted from its position on the margin to the center and become a respectable subject for academic pursuance. It is a common phenomenon that the subject of utmost practicality/applicability in society attracts most talented students. As the previously neglected instrument, law now plays a crucial role in the Chinese society and naturally draws the talented to pursue legal careers.
3. China’s change from a centralized society to pluralistic society with diversified interests and values have made the legal mechanics of dispute resolution more reliable and important than wisdom or actually whims of individual leaders. People have become more aware of their own rights and in turn more “litigious” than in the past. The market economy demands more people of special skills to provide legal service in business operations. As the result, disputes resolution and market operation create more jobs for legal professionals. The potential job market provides big incentives to legal study. Deng Xiaoping in 1980 said clearly that there was a shortage of legal experts. From lawyers to judges to prosecutors and to police, the shortage was at least one million.^[23]

4. China’s participation in the world community and evolution in the trend of globalization requires it awareness of foreign and international rules. For example, after China’s re-accession to the WTO, the Protocol on the Accession of the People’s Republic of China states: “China shall apply and administer in a uniform, impartial and reasonable manner all its laws, regulations and other measures of the central government as well as local regulations, rules and other measures issued or applied at the sub-national level (collectively referred to as “laws, regulations and other measures”) pertaining to or affecting trade in goods, services, trade-related aspects of intellectual property rights (“TRIPS”) or the control of foreign exchange.”^[24] With the influx of foreign businessmen, investors and the lawyers as their companions, foreign concept of transparent legal rules, independent judiciary and rule of law, etc. have greatly influenced the formation and development of the Chinese legal system. In the academic fields, exchanges of law teachers and students also provide role models for Chinese law schools and departments.
5. With the ambitious plan to build a sound legal system and rule of law in China, ideologically, the legal academia embraces a sense of self-consciousness and is devoted to building a “law’s empire”. The old practice to mixing up law with politics has made law subordinate to politics. Bearing the bad memory of this practice, they are eager to develop a pure legal science separated from other social science disciplines, such as politics, history, sociology and others^[25]. In practice, the ongoing massive legal construction provides rich materials for legal science and education to flourish. Compare to political science, law is more practical and important in society. The rapid expansion of legal education has turned departments of politics in a number of universities and colleges into law departments.

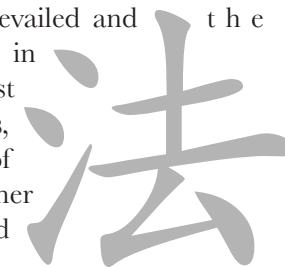
In summary, China’s current legal reform has changed substantially the position of law in the society, created a large job market for legal professionals, and gave incentives to the rapid expansion of legal education.

EXPANSION OF LAW DEGREE PROGRAMS

The rapid expansion of legal education in China dwells more on size than quality. As mentioned above, within a short period of time, the number of law departments and schools has plumped up to 559, including a number of those which are transformed into law departments from former departments of politics or political education. In those places, the quality of teachers and teaching is much questionable. But more problematic is the structure of multiple-programs, pedagogy, teaching materials and educational philosophy, which touches real fundamental issues in Chinese legal education. If not properly analyzed or dealt with, they will lead to serious consequences. In short, Chinese legal education has achieved remarkable achievements, but is coming to a crossroad for further development. New directions and ideas render reflection of the current situation of legal education critical. The expansion should go beyond the veil of glamour and touch the fundamental issues that face Chinese legal education. Otherwise, a recession of legal education as that in the 1920s and 1930s may repeat itself one way or another.

1. The LL.B. Program

Since the revival of legal education in late 1970s, there have been various degree programs created by Chinese law departments and schools. As a tradition, the mainstream of Chinese legal education is undergraduate bachelor degree program. Graduates from senior high schools are admitted into bachelor of law (LLB) programs once they pass the nationwide entrance examination. In the 1980s and 1990s, the LLB program is further divided into sub-programs, such as LLB programs of law in general, economic law, commercial law, international law, criminology and criminal detection, etc. The early specialization of inexperienced students was under heavy attack.^[26] In the later 1990s, the idea of quality teaching prevailed and the narrow-minded sub-programs in LLB were re-integrated in most law schools and departments, except in those universities of politics and law, which had no other disciplines except law then and had a large size of student body.



2. The Traditional Graduate Programs

Besides the LLB program, there are Master of Law and Ph.D. of Law programs. The Master of Law program admits LLB holders who graduate from law schools and departments. The purpose of the program is to train future academia and jurists. Many of current teachers in various law schools are graduates of this program. The master degree candidates pursue in-depth study in particular areas of law. Under the curricular structure, law is the first level (grand) discipline. Ten sub-disciplines, such as constitutional law, civil law, criminal law, procedural law, international law, etc, fall under the second level. Graduate students (Masters and Ph.D. candidates) are expected to conduct more specialized

loosened, it becomes chaotic. It reveals that in the transition from planned economy to market economy, the monolithic administrative control by the government is changing while other mechanics of market and social control by professionals and civil society based on calculable and predictable legal rules are still primitive and inadequate.

3. Part-time Degree Programs

Along with the above-mentioned programs for full time students, some law schools also offer various night programs and long-distance learning programs for different types of degrees for those who are working. These programs grew out of the need to train judges,

Chinese legal education has achieved remarkable achievements, but is coming to a crossroad for further development... ..

The expansion should go beyond the veil of glamour and touch the fundamental issues that face Chinese legal education.

research in one of those fields. These programs span for three years each. In recent years, starting at Peking University Law School and Tsinghua University Law School, the master degree program has been shortened to two years and doctoral program extended to four years.

In order to have the authority in running master and doctoral programs, a school or department must apply to Degree Commission of the State Council. The sub-committees in each first level discipline, which consist of selected reputable scholars, review the applications in their disciplines and make decision of approval or disapproval. In order to obtain such grants, considerable energy, time and money have been spent on the application rather than on improvements in teaching and research. While the commission protocol works well as a quality control mechanism, it emphasizes the form rather than the substance and leads to malpractices as a result.^[27] Like the Chinese economy, there is always a dilemma that once controlled, it becomes dead; once

prosecutors and lawyers, who were not legally trained by law schools in 1980s. As temporary devices, they certainly helped alleviate the stress of the lack of professionals in the legal field. But as more law practitioners became formally trained in the 1990s, many elite law schools have abandoned these programs.

4. Newly Design J.M. Program

Compared to legal education in America, traditional types of degree programs have received many criticisms. One argument is that the students are too young (usually 18 years old after high school) and inexperienced to understand the essence of law. The problem is exacerbated by the coming generation that grew up in on-child families. There is a shared sense of suspicion among the legal incumbents whether they are qualified to solve complicated social problems after graduation. Some also argue that the study of law only gives the students a narrow perspective and therefore a poor foundation of knowledge, which would hinder

their practicing law in real social contexts. The current trend of legal practice really requires legal experts not only conversant in law but also knowledgeable in other subjects such as business management, accounting, sociology, and so on. Another argument is that many countries are modeling after the American J.D. pattern, creating graduate law schools^[28] or recruiting more experienced students or graduates from other disciplines. Chinese legal educators have the similar line of thinking, turning to foreign (mainly American) models of legal education for revelation and experience.

In order to solve the problems described above, Ministry of justice and Ministry of Education worked together to explore new possibilities. In 1993, Ministry of Justice initiated a research project on professional training. In 1994, Ministry of Justice, with the consent of Ministry of Education, reviewed the possibility of setting up a professional training program. In 1995, the General Office of the State Council Degree Commission and the Research Group on Establishing on Trial Bases of Legal Professional Master Degree Program delivered a report to the 13th Meeting of the State Council Degree Commission on establishing the Legal Professional Master Degree Program (later it was given a formal English name of *Juris* Master or JM Program). In 1996, the JM program was set up on trial basis. With the American J.D. pattern in mind, this new program aims to train high quality legal professionals with broader (cross disciplines) knowledge, practical skills and capacity.^[29] At present, there are 48 law schools and departments, which are granted with approval for running JM programs.^[30]

JM program has two modes. One is for those that graduated from tertiary institutes but have no previous legal training background. They will be full-time students for two to three years. Another one is for those who have legal training background and worked in law-related positions (i.e. judges, prosecutors and lawyers) and requires five years of working experience. Participants of this program are part-time students for three years. For the second mode, some schools require students to come on weekends or full-time study for one term each year. Recently, the pool for this program has been shrinking, because most potential candidates have been admitted to the current JM programs and those who have not have more difficulties for admission, while most of the new intakes into the legal profession are recent law school graduates with less desire to study the same subjects repeatedly.

PIERCING JM PROGRAM'S VEIL OF GLAMOUR

JM program was designed with much hope and expectation to start a new pattern of legal education similar to the American JD program. It has drawn much public attention and attracted a large number of applicants. In 2004, there are 945000 applicants for master degree programs in the nation and, among them, there are 34899 applicants for JM program^[31]. From 2005, the number of applicants for JM programs has exceeded the number of MBA applicants, becoming the largest group of applicants.^[32] Despite of its popularity and the large pool of applicants, after ten years of practice, there have been many serious problems existing in the full-time mode JM program. The situation is so critical that it could be said that it is at a crossroad of destiny.

(1) The JM program failed to attract top students, since most top students will continue for graduate study in their original disciplines by recommendation, namely exempt from entrance examination. This is certainly a great privilege, and therefore, rarely a student will turn the offer down. Other top students may go directly into the job market given their competitiveness. JM becomes an alternative for those who are less competitive, although many of them are good students. The ever-increasing large pool of applicants for graduate programs^[33] makes graduate study a fashion among college graduates. As a result, quite a number of applicants for JM have no real interests in law, but applied anyway with a hope to change their hats by attending tops universities or to delay their competition in the job market.

(2) The mode of entrance examination is most ridiculous. The full-time JM candidates are graduates from other disciplines. Nevertheless, the entrance examination tests their knowledge in constitutional law, criminal law, civil law, legal theory and legal history. Applicants therefore must prepare these subjects by attending preparatory training sessions, reading and memorizing those pre-exam materials. Those who pass the entrance examination may not be smarter but rather have better memory.

(3) There are no new and specially designed teaching materials and textbooks for them, but simply that used for LLB students. Few courses for practical skills

and quality training are organized and offered as the original plan promised. The intended new pattern of legal education has hardly brought any innovation and meaningful changes in law teaching. As a result, the entire legal education has not felt any substantial impacts.

(4) The teaching methods follow the same doctrinal pedagogy. Although the purpose of JM is to train high quality professionals, the current materials used and pedagogy applied are not sufficient in providing reliable means for such a purpose.

(5) The small number of high quality JM programs graduates has limited the growth of the program's reputation, making it difficult for the graduates to attain good jobs. Some employers openly say that they do not look for JM graduates.

(6) Despite the many problems, most schools would like to compete for permission to open this program. The most compelling reason is that this program will be self-financed by participants and, therefore, can charge higher tuitions than other regular programs. Economic consideration is apparently the most powerful engine for running the program. It overshadows the drive for educational reform. As a result, the number of law schools with granted authority to run JM program has increased into 48.

Many law schools have detected the current problems of JM program, but there have not been any overall scheme to fix them. While many schools are still considering to get such grant and to expand, a few have started to deal with these problems seriously. Tsinghua University and Peking University are trying to improve the composition of the intakes by (a) admitting top students from top universities through direct recommendation, (b) increasing more skill and capacity training causes, (c) adopting more case law teaching methods and other reforms. The result cannot be foreseen at the moment. But one thing certain is that, the current JM program falls short of the original intention to have a new format of legal education after the American pattern. Without substantial changes and innovative reforms, the JM programs will destroy its own future.

- ☑ Admitting top students from top universities through direct recommendations
- ☑ Increasing more skill and capacity training causes
- ☑ Adopting more case law teaching methods and other reforms

INTEGRATION OR DIVERSIFICATION?

A question that arises from the fact that China has so many different programs in law is whether we should integrate all these different types of programs or leave them the way they are. There is little consensus to this question. Because of historical reasons, all these programs have their traditions and the current educational control mechanics, such as review power by Ministry of Education and by various review or evaluation committees, have their own interests in exercising these powers. For example, the power to review applications for degree programs gives the administrative organs and those who control these committees so much monopoly, which in turn may generate many back door dealings and illegal lobbying. Nevertheless, various preparatory materials have been produced and preparatory programs organized for those who wish to get into the programs, which bring lucrative incomes to the authors and organizers. It is no wonder that, despite the criticisms, the current programs remain the way as they are. Some scholars raised more radical plans of setting up only one graduate law program similar to the U.S. JD program^[34] and integrating all different programs into this one.

The proposal to have a new three-year graduate legal education has much echo in Japan and Korea. It sounds a mission impossible in China, but being implemented in these two countries with similar cultural heritage. In Japan, after the reform proposal was passed by the Diet in 2002, existing law faculties submitted plans for the new law schools to the Ministry of Education in July 2003, and charters were granted to sixty-six out of seventy-two applicant schools in November 2003.^[35] In order to make this new pattern of law schools workable and compatible with the current Japanese legal education, while keeping it innovative and

reformative, “[t]he new law schools are placed between undergraduate education and the Institute. In the system being established, undergraduates are to apply for admission to law schools. They are to spend three years in law school, although individual law schools may permit students who have undergraduate degrees in law to complete the program in two years. Existing institutions are not to be eliminated. Existing law faculties are to continue to exist and to provide undergraduate and graduate education in law. The Institute and its period of practical training are similarly to continue. Law school graduates are to take an examination for admission to the Institute. Some of the practical training presently provided by the Institute, however, is to be shifted to the newly-formed law schools.”^[36]

Although Korea raised this idea of three-year law school first in 1995 in the Report of the Presidential Commission on the Promotion of Globalization^[37], it remained as an idea for years.^[38] By the summer of 2004, “at least one Korean university has set up, on its own, a three-year graduate legal education program with substantial English language instruction, even though it is not completely clear how this will interface with the bar and what the graduates will do.”^[39] It is recently reported that just a few top universities are be granted the authority to establish this three-year law school.^[40]

As a matter of fact, China raised the idea of legal educational reform first in 1993 and set up this year-year JM program^[41] in 1996, earlier than both Japan and Korea. Nevertheless, this newly established JM program is created as an additional educational program to the existing programs. Therefore, other programs will continue to exist. While in Japan, the existing law faculties will continue to operate, but they become a general educational program without emphasis on professional training. If the graduates intend to become lawyers, they must apply for new law schools for two years study since only those who graduate from law schools are eligible for bar examination. In this way, the new law schools monopolize the access to bar examination and, in turn, strengthen their sole authentic positions in legal education. Korea is making similar if not more radical changes by creating just a few new law schools, which have the same monopoly over legal education and access to legal profession.

The Chinese legal educational reform lacks the courage and

momentum for comprehensive planning. Although it is China that established JM program to reform the traditional legal education system, it fails to achieve the success like in Japan and Korea. Unlike the practice in Japan and Korea, China makes the JM program parallel with the other programs without giving it the monopoly of legal education and access to bar examination. For Chinese Bar Examination, it is not a prerequisite to take JM for applicants. According to the current laws regarding the qualification of lawyers, judges and prosecutors, anyone with a bachelor degree in law and above or with a bachelor degree or above in other disciplines but having the knowledge of law is eligible to take the bar (“Uniform Judicial Examination”, which is the single examination for all legal professionals)^[42]. This makes JM similar in nature with “second-degree program”^[43]. This structural arrangement is one cause for the inflicted agony on the reformed oriented JM program.

Another cause is that the gist of JM program is unclear and is still very much involved in the debate over professional or liberal art (general) education. China follows the continental (civil) legal tradition. “Civil law is a law of the professors.”^[44] The “high level of abstraction – this tendency to make the facts recede – is one of the most striking characteristics of legal science to a lawyer from the United States or England. The principles developed by legal scientists have been taken out of their factual and historical context, and are consequently lacking in concreteness. The legal scientist is more interested in developing and elaborating a theoretical scientific structure than he is in solving concrete problems.”^[45] Suspicion that JM program is lack of scientific and theoretical element is very strong. This makes it more vulnerable.

On these issues, the Chinese JM program is substantially different from the law school model in both Japan and Korea. Unless the similar structural changes are made, Chinese JM program has a gloomy future ahead and will fail the main purpose of the reform by falling into the old track of other existing programs.

NOT A CONCLUSION

The current structure of multiple-programs will not be changed easily, due to the size of legal education in China, traditions in each program and the interests involved. Nevertheless, my view is that it cannot be maintained without any change. Rather than making all these programs

parallel, it is better to have a clear goal and then to endeavor to realize this goal through continuous but incremental reforms. The goal is to integrate all types of programs into a single structure, namely to make JM program the main body of legal education with necessary control over access to legal profession. After strengthening this program, the LLB program could be abandoned and other graduate programs reduced in size or transformed into specialized ones. The traditional Master of Law program could be changed into LL.M. with some special training, such as tax law, intellectual property law, environmental law or financial law, etc. The Ph.D. program should substantially reduce its size. This proposal will make Chinese legal education a graduate professional education, which will substantially change the composition of student body with the input of more experienced and knowledgeable college graduates. Once restructured, Chinese legal education will be better situated and further pushed to deal with more fundamental issues of pedagogy, curriculum design, teaching materials and teaching philosophy.

Whether this proposal could be accepted by many and implemented in practice remains an open question. The solution to which will test our wisdom, courageousness and commitment to quality legal education. ■

REFERENCES

- [1] Roscoe Pound, THE FIRST REPORT ON LEGAL EDUCATION, 1948 (The quotation is from the Chinese version of his speech on the Fifth Legal Education Committee Meeting of Ministry of Education in Nanjing.), from He Weifang, THE WAY OF CHINESE LEGAL EDUCATION, China University of Politics and Law Press, 1997, p.301.
- [2] Article 5, the Constitution of the PRC stipulates: "The People's Republic of China practices ruling the country in accordance with the law and building a socialist country of rule of law." It is clear that China is in the process of building rule of law in the country, but not yet has sound rule of law. One view is that rule of law has two types, namely thin and thick. China does not have thick but a thin type of rule of law. Randall Peerenboom, China's Long March toward Rule of Law, Cambridge University Press, 2002, p. 3.
- [3] The three law departments are the departments of Peking University, Jilin University and Hubei Institute of Finance and Economics. The last one has a few teachers therefore it is not regarded as a full-fledged department. Zeng Xianyi & Zhang Wenxian, Strategic Research on Reform and Development of Chinese Legal Education, Higher Education Press, 2002, p. 55.

- [4] Huo Xiandan, Development and Transformation of Chinese Legal Education, Law Press China, 2004, p. 8. Bureau of Education, Ministry of Justice, Statistics of Law Students in Tertiary Education in China from 1977 to 1988, from Huo Xiandan, supra, p. 426.
- [5] Chen Hongwei, The Number of Law Departments Reaches New Height, Legal Daily, January 19, 2006. It is also on http://www.legaldaily.com.cn/misc/2006-01/19/content_254855.htm
- [6] State Statistic Bureau, China National Statistics of 2004, from <http://www.stats.gov.cn/tjsj/ndsj/yb2004-c/indexch.htm>.
- [7] Zeng & Zhang, supra, p. 50.
- [8] There are different views in this regard. Some scholars hold that although Chinese legal education remained mainly in stagnation, emphasis on legal education has been part of traditional Chinese legal culture. (See Zeng & Zhang, supra.) Others regard that along with the development of Chinese civilization, it is a pity that there was no correspondent institutionalized legal education. (Sun Xiaolou, Legal Education, China University of Politic and Law Press, 1997, p. 14; Wang Chenguang, The Purpose of Legal Education, Law And Social Development, Vol. 8, No. 6, 2002, p. 34.)
- [9] Wang Jian, Legal Education In Modern China, China University of Politics and Law Press, 2001, pp. 77-81.
- [10] Zeng & Zhang, supra, p. 50.
- [11] Wang Jian, supra, p. 222.
- [12] Zeng & Zhang, supra, p. 51.
- [13] Wang Jian, supra, p. 222.
- [14] Ministry of Justice, Plan of Legal Education from 1981 to 1990, Oct. 25, 1980, from Huo Xiandan, supra, p.3.
- [15] Bureau of Higher Education, Ministry of Education, National Statistics Of Admitted, Graduated And Current Students In Law Institutes And Departments From 1953 to 1976, from Huo Xiandan, supra, p. 322.
- [16] Zeng & Zhang, supra, p. 55.
- [17] Francis G. Snyder, THE FAILURE OF "LAW AND DEVELOPMENT, 1982 Wis. L. Rev. 373, p. 373.
- [18] David M. Trubek, Back to the Future: The Short, Happy Life of the Law and Society Movement, 18 Fla. St. U.L. Rev. 4, 1990, p. 24.
- [19] Joseph R. Thome, Heading South But Looking North: Globalization and Law Reform in Latin America, 2000 Wis. L. Rev. 691, p.712.
- [20] Deng Xiaoping, Liberate Minds, take truth from Facts, Be Unified for Forward Looking, from Selected Works of Deng Xiaoping, People's Press, 1994, vol. 2, p. 140.
- [21] Max Weber, Economy and Society, University of California Press, 1978, pp. 215-216.
- [22] Max Weber, supra, p. 337.
- [23] Deng Xiaoping, CURRENT SITUATION AND TASKS, from SELECTED WORKS OF DENG XIAOPING, see supra, p. 263.
- [24] Article 2(A)2, PROTOCOL ON THE ACCESSION OF THE PEOPLE'S

REPUBLIC OF CHINA, Nov. 10, 2001.

- [25] Chen Shouyi, ON LEGAL RESEARCH AND LEGAL EDUCATION, Peking University Press, 1996, p.131,
- [26] Wang Chenguang, PUZZLING ISSUES IN THE CHINESE LEGAL EDUCATION, Peking University Law Review, No. 2, 1993, p. 73.
- [27] The number of grants for admitting master and doctoral degree students is the indication of the prestige and the academic rank of a law school. In order to obtain the approval, the procedure falls not infrequently into personal network games and bargaining. In order to cope with the problem and give more autonomy to academic institutes, the Ministry of Education on one hand enforces the procedural rules of application and on the other hand delegates the autonomy of approving master or doctoral degree programs of either first level or second level disciplines to some top universities, such as Peking University and Tsinghua University. This policy has encountered much resistance from both lower rank and top rank universities, which are not enlisted into the list. The result is still unknown.
- [28] Tom Ginsburg, TRANSFORMING LEGAL EDUCATION IN JAPAN AND KOREA, 22 Penn St. Int'l L. Rev. 433, summer, 2004 .
- [29] Huo Xiandan and Sun Xiaoxia, RESEARCH ON CHINESE LEGAL PROFESSIONAL MASTER PROGRAM, a working paper delivered as the final report of the research project of Ministry of Justice, December 12, 2004, p. 6, 16. It is available at the conference on legal education at Zhejiang University, 2005. Huo Xiandan, COMMENTS ON AND REFORM OF PROFESSIONAL JURIS MASTER PROGRAM IN CHINA, 2002, from <http://www.chineselawyer.com.cn/article/show.php?cld=1471>.
- [30] List Of Schools And Departments With JM Programs In 2006, from Chinakaoyan Wang (China Web-Site on Graduate Student Admission), Sept. 15, 2005, <http://www.chinakaoyan.com/article.php/2401>.
- [31] List Of Graduate Programs With More Than One Thousand Applicants In 2004, from Sohu Web-Site, Dec. 31, 2003, <http://learning.sohu.com/20031231/n240733151.shtml>, and April, 21, 2005, <http://learning.sohu.com/20050421/n240733170.shtml>.
- [32] The Number Of JM Applicants Becomes The Largest, from Xinhuanet, Dec. 13, 2004, http://news.xinhuanet.com/edu/2004-12/13/content_2326987.htm.
- [33] In 2004, there are 945000 applicants for graduate programs in the nation; in 2005 there are 1170000; and in 2006, there are 1275000. The increase is surprisingly rapid. Graduate study becomes a way of delaying the competition in the job market for some graduates, resulting in less academic interests among some applicants. The figures are from Sohu.com, Dec. 20, 2005, <http://learning.sohu.com/s2005/06bktj.shtml>.
- [34] Betty Ho of Tsinghua Law School has the most radical view to change legal study into seven years. The first four years are just like American college programs full of basic social and science courses or liberal arts education. Then those who are top and have interest will continue their legal study for three years. The view is expressed in her working paper, Nature Of Legal Education, which is circulated at the faculty meeting on legal education of Tsinghua Law School on Jan. 8, 2005.
- [35] James R. Maxeiner and Keiichi Yamanaka, THE NEW JAPANESE LAW SCHOOLS: PUTTING THE PROFESSIONAL INTO LEGAL EDUCATION, 13 Pac. Rim L. & Pol'y 303, April, 2004, p. 312.
- [36] James R. Maxeiner and Keiichi Yamanaka, supra.

- [37] Tom Ginsburg, Transforming Legal Education in Japan and Korea, 22 Penn St. Int'l L. Rev. 433, Summer, 2004, p. 437.
- [38] Tom Ginsburg, supra, p. 438.
- [39] Tom Ginsburg, supra, p. 438.
- [40] Information obtained from some Korean visitors in 2005, but no written news or articles are available.
- [41] Some law schools' JM programs run for two years.
- [42] Article 6, Law of the People's Republic of China on Lawyers; Article 9, Law of the People's Republic of China on Judges; Article 10, Law of the People's Republic of China on Prosecutors.
- [43] "Second-degree Program" is a bachelor program for those who have obtained a bachelor degree in another field. This program is not a high quality program since most participants are those who do not have good academic record in the first major. Graduates from this program are regarded as bachelor degree holder without much difference from the first degree. Most of the elite universities are giving up this program.
- [44] John Henry Merryman, The Civil Law Tradition, Stanford University Press, 1985, p. 56.
- [45] John Henry Merryman, supra, p. 64.

Meeting the Challenges of Combating HIV/AIDS in China

BY XIGUANG LI AND BILL VALENTINO

ABSTRACT

Every three months for the last two years, a group of 30 journalists and people living with HIV/AIDS would check into a guest houses near Tsinghua University, where they would spend the next three days living, eating and learning together in a workshop “Training Program for Covering HIV/AIDS in China”. Sitting in a Tsinghua classroom, the journalists, media experts and people living with HIV/AIDSs will study, learn, actively participate in the lectures, group discussions, games and share their experiences in reporting and fighting HIV/AIDS. Most of the time, in group discussions, the participants living with HIV/AIDS are arguing strongly against the media participants about their inaccurate and biased reporting of Chinese media in covering HIV/AIDS.

ACADEMIA AND PRIVATE SECTOR PARTNER TO FIGHT HIV/AIDS

Since early 2004, Tsinghua University piloted a workshop aimed at understanding the role of media in the promotion of public health focused on promoting the advocacy role of the news media in order to combat HIV/AIDS by launching Tsinghua-Bayer Public Health and HIV/AIDS Media Studies Program”. This public-private partnership represents a example of a multi-sectoral approach where the use of the core competencies of both partners are being productively utilized

in the fight against HIV/AIDS in China. The program itself was founded to create a proactive media agenda in China which contributes to social change aimed at stopping the spread of HIV/AIDS but also at educating how to mitigate the extensive impact of the disease on society because ultimately AIDS effects more people than it infects.

The academia-private partnership between Tsinghua and Bayer began with the task of synthesizing the critical lessons learned about the spread of HIV/AIDS in China and experiences observed from other countries. This led to a concept which aimed to create a communications strategy targeted at the education of media professionals to enable them to play a critical role and make a difference in combination with other efforts to fight HIV/AIDS in China.

TRAINING MEDIA PROFESSIONALS - WHY?

Focusing on communications, in the print, broadcast and electronic media - officials, decision makers, senior editors, members of key media organizations, media professionals and journalists all have an essential role and a social responsibility in the prevention of HIV/AIDS. This is not only because of their access to so many readers, viewers and listeners, but also because the media has an unparalleled capability to raise awareness about HIV/AIDS, give accurate information about the disease,

and set positive standards that combat discrimination and stigmatization and foster tolerance and acceptance by individuals and communities toward persons living with HIV/AIDS. Media are also an important means to share correct information about the disease and inform about available services, including counseling, testing, treatment, care and support. The media has the power to inform and educate and in doing so they have the power to save lives.

AN INNOVATIVE CHINESE PERSPECTIVE OF MEDIA INVOLVEMENT

Given that the media is highly commercialized and regulated by the government and where many of the largest media organizations are agencies of the government, this approach can be viewed as a truly innovative step towards tapping the hidden vibrancy and diversity of an evolving more vocal Chinese media which is increasingly becoming more open to discussion of social issues and policy options. This openness has been triggered by the fact that most media outlets have become heavily commercialized and seeking commercials are becoming their major goal in running a news media, instead of “serving as the mouthpiece of the Party and the people.” Chinese media are producing programming and reading that audiences find attractive and interesting in order to generate advertising revenue. The result of this heavily commercialized has led a sensational coverage of HIV/AIDS in China, which has been characterized by biases, discrimination, stigmatization, inaccurate reporting, exaggeration, distortion and make-up stories. The result of Chinese media’s attitude in reporting HIV/AIDS has turned HIV

positive people away and few people are willing to speak publicly about the worsening problem.

Chinese media’s attitude in reporting HIV/AIDS has turned HIV positive people away and few people are willing to speak publicly about the worsening problem.



HIV/AIDS IN CHINA

China’s HIV/AIDS epidemic is among the fastest growing in the world. HIV has now spread to all of China’s 31 provinces, autonomous regions and municipalities. Much of the current spread of HIV in China is attributable to injecting drug use and paid sex. Although recently released official figures signaled a downward revision of the number of HIV carriers in the country from 840,000 to 650,000, the infection rate is still rising rapidly at 10% each year. The new figure, which remains just an estimate, is based on better data collection and calculation models but the WHO and UNAIDS, pointing to the 70,000 new HIV cases recorded in China in 2005, warn that the disease is on the rise and that there is absolutely no room for complacency. The latest figures also show that the HIV transmission pattern has changed. Half of the new infections last year were transmitted through

sexual contact which is facilitating the spread of the disease from high-risk groups to the general population whereby containment is becoming a lost opportunity.

PUBLIC KNOWLEDGE POOR

Fueling this spread is the fact that the Chinese public’s knowledge of HIV/AIDS remains alarmingly limited. This indicates, that despite a growing crisis, the role that communications should play in HIV prevention, care and support is underestimated and underutilized. Better use of behavior change communication strategies for HIV/AIDS prevention has been identified as a critical factor in breaking the silence about HIV AIDS and moving it into the public sphere where its spread must be controlled.

Beyond lack of information exist also denial. It exist both on personal and societal levels where many believe that HIV/AIDS is an issue for others and that the risk of contracting it does not apply to them. It is a part of the triangle of denial consisting also of stigma and discrimination. This keeps many from seeking information and help if they are infected but also it causes many to distance themselves from the realities of the epidemic creating a false sense of security.

MEDIA AND THE POLITICAL PROCESS

Placing HIV/AIDS on the public agenda is very much a political process but communications has an important role in influencing the national-agenda setting process through which policies are formed. Since 2003 the Chinese central government has demonstrated tremendous leadership in fighting HIV/



Li Xiguang, the Executive Dean of the School of Journalism and Communication of Tsinghua University and director of Tsinghua-Bayer Public Health and HIV/AIDS Media Studies.



Bill Valentino, the Chairman of the Global Business Coalition on HIV/AIDS in China and co-director of Tsinghua-Bayer Public Health and HIV/AIDS Media Studies Program.

AIDS nationwide. It has established a supportive national framework, improved understanding of the key elements of the epidemic and provides treatment, care and support to people living with HIV/AIDS. But fighting HIV/AIDS requires more than political will. Communications that change the behavior of individuals and systems are required to reduce the incidence of the disease.

CHALLENGES FACING THE MEDIA

In establishing the Tsinghua-Bayer program the first challenge faced was how to make news media experts understand that in addition to just emphasizing “news value” associated with reporting HIV/AIDS that they also have an important role in promoting social change and collective action. The goal was to create news value and at the same time achieve social change through media advocacy. This most importantly includes putting a human face on the disease by telling stories of individuals living with HIV/AIDS. This is something that many media professionals do not readily recognize or accept especially when it comes to covering the topic of HIV/AIDS.

The first challenge faced was how to make news media experts understand that in addition to just emphasizing “news value” associated with reporting HIV/AIDS that they also have an important role in promoting social change and collective action.



A second challenge was to create a fundamental understanding that the role of media in the promotion of public health is important and even more so when combined with advocacy in the news media. While news media advocacy seems more capable of being able to influence the larger issues that create an environment determining individual behavior, health communications play a key role in increasing personal knowledge and changing individual behavior. Combining the roles of news media and health media serves to educate the public regarding life saving individual behavior and at the same time promote social change and collective action. Very important in the context of China, they also influence

government thinking which creates a socio-economic environment which encourages behavior change and sustainable action to mitigate the impact of HIV/AIDS.

In the bigger picture of prevention, the growing value of media-based public health communications do not replace government and community based initiatives but rather play a critical role in supporting them. At the same time communications can also support differing approaches to HIV/AIDS prevention by addressing the underlying issues of discrimination and poverty which seem to drive individual behavior and the HIV/AIDS epidemic in the first place.

A CONCEPT FOR MEETING THE CHALLENGES

The basic concept for the media studies program was based on the design and delivery of training workshops on HIV/AIDS led by Tsinghua professors, guest speakers and discussion leaders, including policy, media, international experts and private sector advocates. A key emphasis in the creation of the workshops was interactive sessions for participants which included simulations of media situations

and also groups activities and games that taught about important aspects concerning the transmission of HIV and living with HIV/AIDS. The educational approach was not to teach participants what to think but rather what to think about. Understanding that nothing should be done and decided without the input of people living with HIV/AIDS the program actively includes PLWHA as full participating students in the workshops. Sitting together with the journalists and media experts they study, learn, actively participate in the lectures and add their valuable input and experience to the program. Also the voices of groups actively engaged in the fight against HIV/AIDS such as MSM (Men Who

The educational approach was not to teach participants what to think but rather what to think about.



Have Sex with Men) and groups working with orphans affected by HIV/AIDS have been represented in many of the workshops.

The underlying idea for the program was to create a strategic resource for influencing, shaping and changing public attitudes through training to ensure high quality, in-depth, responsible and diverse media coverage of public health and specifically HIV/AIDS, aimed at establishing better public health reporting standards and channels in China.

THE PROGRAM IN ACTION

Since 2004 the program has trained over 300 media professionals and media leaders in over 9 workshops that have been conducted not only in Beijing but also in Henan and Sichuan Provinces engaging media professionals from all over China including Tibet.

During this period the program has produced China's first textbook to use as the core training reference which includes applied research and conceptual and practical materials on HIV/AIDS in China. Also it has produced essays and articles, training modules, case studies, and in cooperation with international organizations a media directory and tools for journalists.

The program receives guidance from an internationally recognized leader in journalism, the National Press Foundation based in Washington DC. This includes a collaboration between Tsinghua and the Foundation's “Journalist to Journalist Program”, which started in 2004 at the International AIDS Conference in Bangkok with students and lecturers from Tsinghua participating. This has continued since then with the active support and participation of the

Foundation's President, Bob Meyers, who has come to China each year to lecture in a number of the program's workshops. This brought the mission of the National Press Foundation to China which aims to provide professional development opportunities in China for editors, producers and reporters. In 2006, the Tsinghua-Bayer Program and the National Press Foundation look forward to sustained cooperation in the planned “Journalist to Journalist” program at the XVI International AIDS Conference in Toronto, Canada where the Tsinghua-Bayer program will ensure the participation of media professionals from China.

By working with media professionals, practitioners and educators, the program seeks to design a competence centre for learning strategies to meet the needs of journalists and media professionals to promote the development of leaders and experts dedicated to reporting on HIV/AIDS, and healthcare related issues in China

GOALS AND OBJECTIVES:

The underlying goal is to contribute to the overall improvement of the health of the Chinese people through communications and in doing so, most importantly make a difference in the fight against the spread of HIV/AIDS.

The objectives set down for the project in regards to HIV/AIDS are:

- To assess the media coverage of HIV/AIDS and to identify the problems of addressing public health issues in the media and to develop best practices and strategic interventions in cooperation with media partners for improving health coverage in China

- To provide training that will focus on the media's role in covering HIV/AIDS
- To mobilize print, television, and radio journalists to research and report on public health issues and to encourage them to undertake in-depth reporting on HIV/AIDS
- To provide an opportunity for journalists and media professionals to gain a deeper understanding of the complex issues (epidemiological, sociological, psychological and economical) surrounding HIV/AIDS by meeting with experts, medical professionals and organizations working on HIV/AIDS prevention, care and treatment and with People Living with HIV/AIDS
- To explore the media's responsibility in disseminating accurate and up-to-date information about HIV/AIDS
- To facilitate networks for media professionals and journalists to share information, address specific issues and develop areas of expertise
- To examine the language used to conceptualize and talk about HIV/AIDS to determine what is appropriate and constructive language to avoid fueling stereotypes and not to cause prejudice
- To promote more accurate reporting by stressing the need to get the facts, names quotes, numbers, dates and places right by checking them once and then checking them again before reporting them
- To underscore guidelines for ethical reporting accentuating truth, fairness, accuracy, balance and objectiveness in news coverage
- To learn to safeguard the privacy and confidentiality when interviewing or reporting about, or even photographing persons living with HIV/AIDS or affected by HIV/AIDS
- To identify the behaviors that put people at high-risk and not concentrate on the types of persons who may be at risk to avoid blame and stigmatization

ASSESSING OUTCOMES AND TRENDS

During the first two years that this program has been running, gradual signs of an impact are beginning to emerge. A recent study shows that in the Chinese press, reporting on HIV/AIDS seems to be giving greater consideration to different story sources and angles, including using as subjects: HIV/AIDS patients and family members, health workers, community organizations, government organizations and private sector involvement. The media seems to be fostering more coverage of "positive" stories that engender a sense of hope, rather than only "negative" or sensationalist stories about HIV/AIDS. They are also cautiously attempting to confront strong cultural taboos and barriers that exist about discussing and/or writing on topics related to sexual health, by writing in a manner that conveys the basic facts without offending the sensibilities of readers. There also seems to be an increase in development of a deeper rapport with communities and with groups affected by HIV/AIDS. Also a more proactive approach to editors is apparent because HIV is being kept on the top of the news agenda and in accomplishing this, public awareness is sustained and it continues to have an impact on the priorities and thinking of leaders and policy makers.

In September 2005 in Washington DC, The Tsinghua-Bayer Program was honored as an innovative media and community project in the fight against the HIV/AIDS epidemic in China by the Global Business Coalition on HIV/AIDS (GBC). This took place at a gala dinner and awards ceremony at the Kennedy Center in the presence of the US Secretary of State Condoleezza Rice, Senator Hilary Clinton, movie star Angelina Jolie and an international audience with the heads of some of the world's largest corporations. Bayer, for this partnership with Tsinghua, was honored as a "Commended Company" at the event. The GBC is the pre-eminent global organization leading the business fight against HIV/AIDS dedicated to combating the AIDS epidemic through the business sector's unique skills and expertise. The award highlighted how "communications" can reflect how businesses, academia, the public sector and society are interwoven through a private sector company's commitment to Corporate Social Responsibility and Sustainable Development. It demonstrates how organizations can be mobilized to use their core competencies to create partnerships in the fight against HIV/AIDS through diverse and innovative approaches.

PLANNING FOR THE FUTURE – A ROLE IN PUBLIC HEALTH

Tsinghua-Bayer media studies program serving as a vehicle to promote education of the Chinese media for the purpose of providing health information to a widespread audience in order to influence changing exposure to risks and modifying unhealthy behaviors, Looking beyond HIV/AIDS, this program is teaching that good news coverage begins with good journalism and that means understanding a range of issues impacting HIV/AIDS, effectively reporting on the disease and its related issues and realizing a role in reducing stigma and improving coverage of the topic. This is based simply on the ability to tell a good story that touches the audience personally, informs them about something they did not know before or create awareness that mobilizes them to take a look at critical issues, to form knowledgeable opinions and to act. ■