



中國法律研究中心

SUMMER 2010

CENTER FOR CHINESE LEGAL STUDIES

Innovative Seminar on Chinese Law, Society, and Governance Brings Leading Scholars to Campus

By Christopher Gomes

A semester-long interdisciplinary colloquium about Chinese law, society, and governance attracted standing-room-only audiences at Columbia Law School during the spring 2010 semester.

More than 35 students from the Law School and the Graduate School of Arts and Sciences were enrolled in the course "Chinese Law and Society." But the public, other students, and professors also attended to hear leading scholars discuss their China-focused research in this weekly colloquium.

Professors Benjamin Liebman and Madeleine Zelin invited 11 specialists from several fields, including history, law, and political science, to discuss topics ranging from justice in 17th-century China to television as a campaign medium.

Liebman is director of the Center for Chinese Legal Studies, which, along with the Weatherhead East Asian Institute, sponsored the events. Liebman's research focuses on the role of media in the Chinese legal system, Chinese tort law, and the evolution of China's courts and legal profession.

"There is a lot of exciting work being done by scholars on both contemporary law and society and on Chinese legal history," Liebman said. "But scholars and students in law, history, and the social sciences do not talk to each other very often. This colloquium was one step toward fostering cross-disciplinary dialogue."

Zelin, the Dean Lung Professor of Chinese Studies at Columbia University, is working on a project about the legal history of the Qing Dynasty.

This cross-disciplinary course was the first of its kind for the university and for the Center for Chinese Legal Studies. Usually, the Center hosts at least one major event and a speaker series in the spring semester. This colloquium was the first series law students could take for credit and for which readings were available to the public in advance of the speakers' presentations.

Colloquium Presentations



January 26

Concepts of Justice in Late Imperial China

Jonathan K. Ocko, *Professor of History and Department Head, North Carolina State University, Raleigh*



February 2

Intelligence Wars: Security, Sovereignty, and Information in China, Ca. 1940

Klaus Mühlhahn, *Professor of History, University of Indiana, Bloomington*



February 9

Case Precedents in Qing China

Wang Zhiqiang, *Professor of Law and Legal History, Fudan University Law School*



February 16

When Being Fair Means Breaking the Rules: Citizen Criteria for Procedural Justice and State Legitimacy

Lily L. Tsai, *Associate Professor, Political Science, Massachusetts Institute of Technology*



February 23

Citizen Complaints and Popular Accountability Under Authoritarianism: Evidence from Pre-1989 Eastern Europe and Post-1978 China

Martin K. Dimitrov, *Assistant Professor of Government, Dartmouth*

(continued on page 2)



Colloquium Presentations

(continued from page 1)



March 2

Speaking Law to Political-Economic Power: China's Derivative Lawsuit Mechanism and the Limits of Private Law

Nicholas C. Howson '88, *Assistant Professor of Law, University of Michigan Law School*



March 9

The Opacity of Texts: Reading Qing Judicial Narratives

Robert Hegel, *Professor of Chinese and Comparative Literature, Washington University, St. Louis*



March 23

Place and Petitioning in China: From the Qing Dynasty to the Reform Era

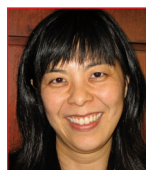
Chen Xi, *Assistant Professor, Political Science, University of North Carolina, Chapel Hill*



March 30

Corporate Social Responsibility with Chinese Characteristics: Advertising as a Means of Campaigning on Chinese Television

Daniela Stockmann, *Assistant Professor, Leiden University*



April 6

The Slippery Matter of Trademarks: Copycat Soap Companies, the Question of Authenticity, and Sino-British Diplomacy in 1930s China

Eugenia Y. Lean, *Associate Professor of History, Columbia University*



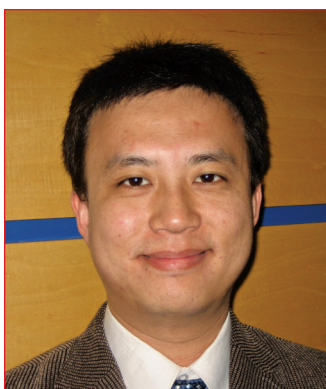
April 13

The Exclusionary Rule in a State of Flux: China, Taiwan, and the United States

Margaret K. Lewis, *Associate Professor of Law, Seton Hall University*

It's not the Law. It's the Enforcement.

Current Barriers to Effective Environmental Law in China



China has more than thirty administrative regulations and more than eighty rules to protect the environment and natural resources. Yet despite significant progress in creating legislation governing the environment, China continues to struggle to limit pollution.

The problem continues to be lack of enforcement, according to Mr. Feng Jia, who spoke at the Law School on March 29. Mr. Feng is a Ph.D. candidate at the China University of Political Science and Law and was a visiting scholar at the Center for Chinese Legal Studies for the 2009-2010 year. Mr. Feng is also an attorney for the China-based Center for Legal Assistance to Pollution Victims (CLAPV).

"China is rapidly losing eco-diversity and is plagued with severe water and air pollution," he said. "The problem isn't that there aren't enough laws. It's that the laws are not enforced. This is because of the barriers to enforcement."

The six types of barriers he cited include institutional, systematic, financial, legislative, capacity, and human resources.

A main institutional barrier is the incentive system for promotion in the centralized Party-State. A bureaucrat's superior evaluates promotion based on economic growth. The problem is that the costs of pollution are not factored into the equation, thus creating a disincentive to use sustainable growth practices. There is also insufficient public participation in enforcement, such as through litigation.

"Public participation through public interest litigation is an extremely effective way to support environmental protection and regulation," said Mr. Feng. "This is also a great way to guarantee social harmony."



The 36th Annual Friedmann Conference Honors Jerome Cohen

Professor and Practitioner Feted for Work on Human Rights and Rule of Law in China

Jerome A. Cohen received the 2010 Wolfgang Friedmann Memorial Award on March 25 at Columbia Law School. He is a professor of law and co-director of the U.S.-Asia Law Institute of New York University Law School.

The *Columbia Journal of Transnational Law* recognized Professor Cohen for his remarkable record of leadership in the development of law in Asia. In making the award, Mark R. Shulman '99, assistant dean for graduate programs and international affairs and adjunct professor of law at Pace University, noted that Professor Cohen has worked tirelessly for half of a century to improve understanding and to promote greater adherence to the rule of law throughout this critical region, most notably in the People's Republic of China. He said that as an insightful scholar and a zealous advocate on behalf of commercial clients and human rights activists alike, Professor Cohen embodies Professor Wolfgang Friedmann's legacy of courage, intellect, and engagement.

In his speech, Professor Cohen addressed the wide range of challenges to the development of the rule of law in China. He shed light on the increasing pressures facing Chinese "rights lawyers" and others taking on sensitive cases.

The conference, organized by the Columbia Society of International Law, comprised three panels. The first was titled, "How has China implemented its new anti-monopoly law?" and the second was "What role does the internet play in encouraging free speech in China? What role should the U.S. play in fostering Chinese free speech?" Professor Cohen sat on the third panel, "What is and should be the role of the legal profession in China?"

The Wolfgang Friedmann Memorial Award has been given annually since 1975 and recognizes an individual who has made outstanding contributions to the field of international law. Past recipients include Sandra Day O'Connor, Professor Louis Henkin, Daniel Patrick Moynihan, Boutros Boutros-Ghali, James A. Baker III, and Hans Blix.

Columbia Law School Professors Celebrate 10 Years of Law School Clinic Development in China



(left to right): Carol B. Liebman and Barbara A. Schatz, both clinical professors of law at Columbia Law School

In June 2010, Carol B. Liebman and Barbara A. Schatz, both clinical professors of law at Columbia, returned to China to attend a conference in celebration of the tenth year of clinical legal education in China. This is a history which the two professors helped build.

"Each time I return to China to meet with clinicians," Professor Liebman said, "I have been impressed by the speed at which the clinical approach has been embraced by Chinese law schools."

Clinical legal education began in the year 2000, when

Professor Liebman and a mediation colleague, Margaret Shaw, were among the first few American clinical professors invited to China to talk about and demonstrate clinical pedagogy. Liebman and Shaw were at Tsinghua Law School, one of seven schools funded by the Ford Foundation to establish the first law school clinics in China. The professors also introduced basic lawyering skills—interviewing, case planning, client counseling and negotiation—at South Central University of Economics and Law (Zhongnan) Law School. Such clinics in part also help develop in students understanding of social justice and professional responsibility.

The following summer, Professor Liebman and Professor Schatz returned, this time to Wuhan to work with the clinical faculties at the law schools at Zhongnan and Wuhan University. Columbia professors have gone to China every few years to continue developing clinical programs. Recently, Professor Schatz worked with the first clinic in China that deals with non-profit organizations.

Today approximately 100 Chinese law schools offer clinics in subjects as diverse as environmental law, employment law, criminal law, women's rights, administrative law and street law.

According to Professor Liebman, "The number seems likely to grow."



Edwards Fellows

Seven Outstanding Scholars

This year the Center for Chinese Legal Studies was pleased to award Edwards Fellowships to seven outstanding scholars. The fellowship is named for Professor emeritus R. Randle Edwards, who founded and directed the Center for Chinese Legal until his retirement in 2002.

Li Honglei

*Associate Professor, Institute of Law,
Chinese Academy of Social Sciences*

Professor Li's areas of specialization are constitutional and administrative law. His research topic while at Columbia was local government law in the United States.

Shen Ming

*Assistant Professor, School of Law,
Beijing Normal University*

Professor Shen's areas of specialization are jurisprudence, philosophy of law, sociology of law, intellectual property law, and emergency law. His research topic while at Columbia was emergency law and crisis handling.

Song Gang

*Associate Professor, School of Law,
Beijing Normal University*

Professor Song's areas of specialization are torts and contract law. His research topic while at Columbia was the handling of tort cases in medical disputes, with practical attention to possible lessons for China.

Su Caixia

*Professor and Dean of Criminal Law Department, School of Law,
South-Central University of Economics and Law*

Professor Su's areas of specialization are Chinese criminal law and international criminal law. Her research topic while at Columbia was a comparative study of anti-corruption measures in the U.S. and China.

Tong Zongjin

*Associate Professor, Law School,
China University of Political Science and Law*

Professor Tong's areas of specialization are legal history, legal theory, and comparative law. His research topic while at Columbia was Chinese legal history from 1978 to 2008, with

particular attention to the influences of foreign models and local experience. He also conducted a review of Chinese law text books.

Gulazat Tursun

Lecturer, Law School, Xinjiang University

Professor Tursun's areas of specialization are criminal law and human rights. Her research topic while at Columbia was the feasibility of case precedent in Chinese criminal law.

Wang Jun

*Lecturer, School of Civil, Commercial and Economic Law,
China University of Political Science and Law*

Professor Wang's areas of specialization include corporate and contract law. His research topic while at Columbia was successor liability in asset acquisitions in the U.S.

Chinese Judges Program at Columbia Enters Its Second Year



In June 2010, Columbia Law School welcomed judges from China for a month-long program for the second straight year. Thirty judges from a wide range of provinces stayed at Columbia as part of their LL.M. program at the City University of Hong Kong. While here, the judges studied civil procedure with Suzanne Goldberg, clinical professor of law; corporations with Katharina Pistor, Michael I. Sovern Professor of Law; and torts with Professor Benjamin Liebman. They also met with top U.S. judges, including traveling to Washington, DC, to see the Supreme Court and to meet with Justice Ruth Bader Ginsburg '59.



Visiting Scholars, 2009-2010

The Center for Chinese Legal Studies was pleased to be able to host five visiting scholars, two Public Interest Law Institute fellows, and a Center for Chinese Legal Studies Fellow during the 2009-2010 academic year.

Chen Liming

Associate Professor, Law School,

Beijing Jiaotong University School of Humanities and Social Sciences

Professor Chen's areas of specialization are jurisprudence, constitutional law, and comparative law. Her research topic while at Columbia was a review of the constitution and the protection of human rights.

Feng Jia

Ph.D. Candidate, China University of

Political Science and Law

Mr. Feng's area of specialization is environmental law. His research topic while at Columbia was the impact of Integrated Ecosystem Management (IEM) on the enforcement of environmental law.

Hu Shuijun

Associate Professor, Institute of Law,

Chinese Academy of Social Sciences

Professor Hu's areas of specialization include jurisprudence, human rights theory, and social theory. Professor Hu's research topic while at Columbia was the function of human rights in liberal political philosophy. Professor Hu was a Ford Fellow.

Huang Xuetao

Horizon Law Firm, Shenzhen

Ms. Huang's specializes in litigation concerning involuntary commitment and "re-education" in China. She is a community activist and was the first blogger in China on public and mental health issues. At Columbia, she studied America's experience with deinstitutionalizing the mentally disabled, with an aim of constructing a critical analysis of the mental health system in China. Ms. Huang was a PILI Fellow.

Li Dongfang

Professor of Law, Director of the Institute of Economic Law,

School of Civil, Commercial, and Economic Law,

China University of Political Science and Law

Professor Li's areas of specialization are economic law, civil law, and commercial law, especially financial and securities law and cultural-heritage-protection law. His research topic while at Columbia was the legal system of securities regulation.

Xia Hui

Legal Aid Center, Ministry of Justice, Beijing

In China, Ms. Xia provides direct legal aid and conducts policy-oriented research. She also works for legal-system reform and ensuring the quality of free legal services. At Columbia, she developed measurable indicators for the quality of legal aid in China by analyzing the American legal aid experience. Ms. Xia was a PILI Fellow.

Xie Xinsheng

Assistant Researcher, Center for International Law,

Chinese Academy of Social Sciences

Professor Xie's areas of specialization include private international law and international commercial arbitration law. His project while at Columbia Law School was a study on the application of the *lex arbitri* in international commercial arbitration.

Zhou Qiong

Ph.D. Candidate, Law School,

Huazhong University of Science and Technology

Ms. Zhou's areas of specialization include civil and commercial law, especially tort law. Her research topic while at Columbia was a comparative study of tort law in America and China. Ms. Zhou was a Center for Chinese Legal Studies Fellow.

The Center for Chinese Legal Studies is very grateful for the continuing support of our alumni in Greater China and throughout the world. **Thank you.** We invite you to see what we're doing today by visiting our website:

www.law.columbia.edu/center_program/chinese



The Society for Chinese Law

The student-run Society for Chinese Law (SCL) also had an active year, sponsoring a range of events that supplemented those organized by the Center for Chinese Legal Studies.

In addition to language exchange programs, SCL put together several academic events. On March 3, Professor Jerome Cohen of NYU School of Law discussed the striking development of Taiwan's legal system over the past several decades and the likelihood that mainland China can chart a similar course, in a talk titled "Taiwan's Legal Reform and Its Relevance for Mainland China." SCL also co-sponsored with the Center a talk with Professor Mary Gallagher. A third academic presentation, "The Anti-Discrimination Movement in China," on April 19, featured two panelists. They were Lu Jun from the Yirenping Center in Beijing and a visiting scholar at Yale's China Law Center, and Dr. Meg Davis from Asia Catalyst.

SCL's unique perspective on the current career interests of the students led to five events. The three co-sponsored with the Center were the talks with Robert Chu and Anthony Root, and the summer internship panel. On February 24,

SCL organized a panel on public interest and NGO work, called "Think Outside the Box: Alternative Careers in China Law," with Aaron Halegua of the Legal Aid Society, Thomas Kellogg of the Open Society Institute, and Professor Margaret Lewis of Seton Hall University School of Law. Finally on April 14, in an event called "Choices and Trends for U.S. Lawyers Interested in China," the directors of the Chinese Business Lawyers Association presented strategies for young lawyers looking to build China careers, current lawyering trends, and career development.

The SCL also celebrated Mid-Autumn Festival on October 23, with mooncakes and tea. SCL also worked with the Asian-Pacific American Law Students Association, and the Korean Law Students Association to organize a Lunar New Year party on February 12. Taking full advantage of being in New York City, the student group also took many trips to eat dim sum in Manhattan's Chinatown and hot pot in Flushing's Chinatown. On and around campus, they sang karaoke and watched Chinese movies.

New Post-doctoral Fellowship to Help Secure Rural Land Rights in China



On February 22, Columbia Law School announced the creation of a new two-year fellowship in China, the Rural Development Institute (RDI) Fellowship

for Rural Land Rights in China. The first fellow chosen for this award will begin work this fall.

The award allows a recent LL.M. or J.D. graduate to gain the expertise and experience needed to work with policymakers and non-governmental organizations in China and the international donor community to secure land rights for rural families in China.

"Recent Law School graduates will be pioneers in a vitally important field of rural land and property rights," said Ellen Chapnick, dean for social justice initiatives at Columbia Law School.

China's 220 million agricultural households represent one out of every three farm families on the planet, and comprise two-thirds of that vast country's population. In 1988, although each household farmed on individual parcels of land, they were highly insecure. This was because local cadres in most villages carried out periodic "readjustments" under which farm

households could be shifted from the parcels they presently farmed to entirely new parcels, or could lose some of the parcels they farmed. Such readjustments were made in the name of maintaining an absolute per capita equality of landholding for every person in the village. Thus, if an elderly grandparent died or a daughter married into another village, their land "share" could be taken away. Moreover, as the total population of the village increased, the standard size of one land share was commonly reduced, according to the RDI website.

Since 1988, China has formulated new laws to help farm families secure rights to the land they till, including a 30-year use right policy. This effectively allows a family to make long-term plans for the land.

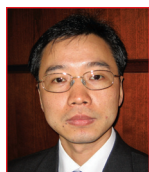
"Columbia has long been a leader in scholarship about international economic justice and substantive institutional reform," Chapnick said. "I'm excited that the fellows will be able to use what they learned here to help rural families in China have the security they need to help lift themselves out of poverty."

The RDI Fellowship for Rural Land Rights in China has been made possible through the generosity of Annie Ang-Yee Chen '88.



Center for Chinese Legal Studies Events, 2009–2010

In addition to the Chinese Law and Society Colloquium (see page 1) the Center hosted 12 events.



September 30

Reconstructing the Moral Foundation of Human Rights: A Chinese Cultural Perspective

Hu Shuijun, *Associate Professor, Institute of Law, Chinese Academy of Social Sciences*

October 3

Mid-Autumn Festival



October 6

An Insider's Look at the Conviction of Taiwan's Former President

Jaw-Perng Wang, *Professor of Law and Associate Dean, College of Law, National Taiwan University*

October 7

Summer Internships

2Ls and 3Ls spoke about summer internship opportunities in China.



October 9

New Media and Global Transformation: An International Conference

The conference brought scholars and specialists from around the world to address media and visual culture, as well as related legal and policy issues.



October 16

The Evolution of International Firm Practice in China: An Outlook on the Future

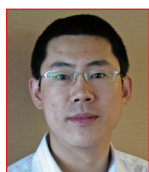
Robert Chu, *Sullivan & Cromwell, LLP*



October 21

Regulatory Reform in China: Focusing on the Administrative Licensing Act

Li Honglei, *Associate Professor, Institute of Law, Chinese Academy of Social Sciences*



October 28

A Failure of Capitalism? A Chinese Perspective on the Economic Crisis and Conservatism

Shen Ming, *Assistant Professor, School of Law, Beijing Normal University*



November 18

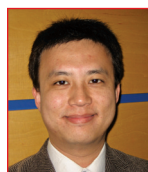
Corporate Social Responsibility (CSR): Potential for Promotion of Labour Standards in China?

Karin Buhmann, *Associate Professor, Unit of Law, Section for Consumption, Health and Ethics, Institute of Food and Resource Economics, University of Copenhagen*

February 8

Practicing Law in Asia

Anthony Root, *Milbank, Tweed, Hadley & McCloy*



March 29

The Challenges and Solutions of Environmental Law Enforcement in China

Feng Jia, *Ph.D. Candidate, China University of Political Science and Law*



April 16

Who Has the Right to Make "Law" in China? Populism, Professionalism, and Fragmentation in China's Legal Realms

Mary E. Gallagher, *Associate Professor of Political Science, University of Michigan*

Alumni News:

Xue Hanqin Elected to ICJ



Xue Hanqin LL.M. '83 and J.S.D. '03, was unanimously elected to serve as a judge on the International Court of Justice at the United Nations headquarters in New York on June 29, 2010. Xue, the third Chinese national to serve on the court, will be the only woman on the ICJ. Prior

to her appointment, Xue served as China's ambassador to the Association of Southeast Asian Nations (ASEAN). She previously served as China's ambassador to the Netherlands and to the Organization for the Prohibition of Chemical Weapons, and as head of the Department of Treaties and Law of the Ministry of Foreign Affairs. Since 2002, she has also served as a member of the International Law Commission.



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