



中國法律研究中心

WINTER 2008

CENTER FOR CHINESE LEGAL STUDIES

China Chosen to Kick Off Worldwide Law School Celebration Year-long Festivities to Honor Both the Center for Chinese Legal Studies' 25th Anniversary and Columbia Law School's 150th

The year 2008 marks exciting milestones for the Center for Chinese Legal Studies and Columbia Law School. The Center is celebrating its 25th anniversary the same year that the Law School is celebrating its 150th.

Responding to the new economic and political climate in China, Columbia Law School established the Center for Chinese Legal Studies in 1983. Led by Professor R. Randle Edwards until his retirement in 2002, the Center served as an early catalyst for fostering Sino-American collaboration and scholarship on the changing Chinese legal system. Today, under the direction of Professor Benjamin Liebman, the Center attracts one of the the largest concentrations of students and scholars studying Chinese law outside of China.

Celebrations of Columbia's Sesquicentennial will run all year. The Law School will kick off the celebration with three events in China in January. For further details, or to RSVP, contact Kate Wetzel, kwetzel@law.columbia.edu.

HONG KONG 11 JANUARY 2008

Cocktail Reception
19:00–21:00

Mandarin Oriental
Gloucester Room, Floor 2
5 Connaught Road
Central, Hong Kong

文华东方大酒店
香港中环干诺道中5号

Join us for a cocktail reception with Benjamin Liebman, professor of law and director of the Center for Chinese Legal Studies and R. Randle Edwards, Walter Gellhorn Professor Emeritus of Law and the Center's first director.

SHANGHAI 12 JANUARY 2008

Dinner Celebration
18:00–20:00

Pudong Shangri-La Hotel
Gui Hua Lou
Level 1, River Wing
33 Fu Cheng Road, Pudong
Shanghai

香格里拉大酒店, 浦江楼一层, 桂花楼
上海浦东富城路33号

Join Professors Benjamin Liebman and R. Randle Edwards for an evening of conversation and celebration as we honor the 25th anniversary of the Center for Chinese Legal Studies.

BEIJING 14 JANUARY 2008

Symposium and Reception
Raffles Beijing Hotel
33 East Chang An Avenue
Dongcheng District
Beijing

北京饭店莱佛士 (原北京饭店B、E座)
北京市东城区东长安街33号

PANEL 1: 16:00–17:30

*Justice in the Public Interest: New
Challenges for Courts and Lawyers*

PANEL 2: 17:45–19:00

*China Invests in the World: Legal
Implications of Chinese Investment
Overseas*

Gala Reception
19:00–21:00

Join Dean David M. Schizer to celebrate Columbia Law School's Sesquicentennial and the 25th anniversary of the Center for Chinese Legal Studies.



Dean David M. Schizer

RSVP by January 4, 2008, to Kate Wetzel, kwetzel@law.columbia.edu.



Columbia Professor Suzanne Goldberg Travels to Beijing



Suzanne B. Goldberg

Suzanne B. Goldberg, clinical professor of law and the director of the Sexuality and Gender Law Clinic at Columbia Law School, spent a week in Beijing this past summer. She traveled there to take part in the International Clinical Legal Education and Legal Profession Forum, from August 9-10. Columbia clinical faculty have played a key role in helping Chinese law schools develop

clinical legal programs, and Professor Goldberg was the third clinical faculty member to visit China in recent years.

At the forum, Professor Goldberg was a featured speaker at the closing session. Because many conference participants had highlighted the importance of teaching ethics through clinics, Professor Goldberg sought to situate the ethics discussion into a bigger picture of clinical education. She stressed that as clinics teach ethics, as well as skills, strategy, and a vision for social justice, they are aiming to help students develop judgment. Clinics are particularly well suited to this task, she said, because they offer real-life experience—with the benefit of supervision.

In addition to addressing the role of clinics generally, Professor Goldberg also described the work of the Sexuality and Gender Law Clinic, explaining that the clinic takes a broad view of gender-based harms and focuses on the rights of women, lesbians, gay men, bisexuals, and transgender individuals. Although a number of clinics at Chinese law schools

focus on women's rights, none currently take up issues related to discrimination and violence based on sexual orientation and gender identity. Professor Goldberg explained how focusing on these issues fits well within law reform efforts aimed at improving the status of women.

During a breakout session that specifically addressed women's rights, Professor Goldberg elaborated on her clinic's work and focused also on the importance of teaching students to think strategically about law reform efforts. Noting that there are many ways to address a problem, she observed that the best approach is often a creative combination of litigation, legislation, public policy development, media advocacy, and community outreach and organizing.

Beyond the forum, Professor Goldberg met extensively with lawyers and non-lawyer advocates from a range of organizations in Beijing. These advocates were working on the rights of women, lesbians, gay men, bisexuals, and transgender individuals as well as people living with HIV/AIDS. These meetings sparked additional contacts between Chinese LGBT/HIV/AIDS organizations and Columbia Law School. Professor Goldberg's clinic is now working on a project for Project Friends, a Chinese organization focused on HIV/AIDS and GLBT rights. Also, last September, internationally renowned HIV/AIDS activist WanYanhai, director of the Beijing Aizhixing Institute, gave a lecture at Columbia Law School at the invitation of the Clinic and the Center. Further collaborations are planned for the future.

Professor Liebman Attends Conference on Drafting China's New Tort Law

In September, Professor Benjamin Liebman attended a conference in Wuhan on drafting China's new tort liability law. The conference, jointly sponsored by the Civil Law Association of the China Law Society and by the School of Law of Huazhong University of Science and Technology, brought together academics, judges, and legislative officials from across China. Professor Liebman, who teaches torts as well as Chinese law at Columbia, was the only foreign expert invited to attend.

"With the recent passage of China's property law, many in China see a tort liability law as the next big piece of legislation to be drafted," said Professor Liebman. "Right now, Chinese tort law is fragmented and frequently unclear. Yet tort law is increasingly vital to ordinary people in China: There has been a surge of cases relating to topics such as medical malpractice, environmental pollution, and traffic accidents. All of these touch on tort law. Ensuring that individuals are able to win redress when they suffer harm due to the negligent acts of others is an important aspect of constructing a legal system that

protects the rights of ordinary people." There are also, he added, interesting parallels between China today and the United States at the beginning of the 20th century, with a surge of workplace accidents and the absence of social insurance schemes that protect those who suffer from accidental injury.

In his remarks at the conference, Professor Liebman cautioned participants to be mindful of some of the problems with the American tort system. He argued that China needs to consider the goals it wants its tort system to achieve, and whether it will, in the long term, design a tort system that plays a primary role in providing for those who suffer injury. He noted that China is unusual among non-U.S. countries in permitting contingent fee litigation, but observed that at present recoveries often appear to be too small to give lawyers significant incentives to undertake tort cases. China has just begun to confront some of the most vexing areas of American tort law, most notably how to handle mass tort cases.



R. Randle Edwards Fellowships for Visiting Chinese Legal Scholars, 2007-08



R. Randle Edwards

Each year the Center for Chinese Legal Studies selects four to five outstanding young Chinese legal scholars as R. Randle Edwards Fellows. The fellowship was named for Professor Edwards in honor of his role both in establishing Chinese legal studies at Columbia and in fostering U.S.-China legal exchanges more generally. The fellowship supports scholars during a period of research in residence at Columbia Law School. This academic year the Center named four exceptional fellows. The Center hosted Ran Hao and Yu Fei during Fall 2007. Yu Fei will stay on during Spring 2008, and will be joined by Wei Xiaona and Zhou Xiaohong.

Ran Hao

Associate Professor, Law Institute, Chinese Academy of Social Science
Professor Ran has been interested primarily in two concepts during her stay at Columbia. The first is how public law and private law compensate for each other. The second is how the concept of human rights gradually comes to possess meaning, especially against the backdrop of commercial, social, and technological transformation.

Yu Fei

Associate Professor, School of Civil and Commercial Law, China University of Political Science and Law
A primary interest of Professor Yu is American tort law. During his stay at Columbia his goal has been to compare the tort laws of the different legal systems from the perspective of functionalism, and to examine the implications for the formulation of Chinese tort law. In particular he has been interested in the application of public policy and moral standards in tort law.

Wei Xiaona

Lecturer, Law School, Renmin University
Professor Wei's focus is negotiated criminal justice. In particular she is interested in why negotiated criminal justice has emerged, when it takes place, its interaction with due process, the American and European perspectives and practices, and public perception of the practice. She has noted the irony of this "post-modern" approach arising in China which is still "completing the task of modernization."

Zhou Xiaohong

Assistant Professor and Vice Director of International Law, Law School, Jilin University
Professor Zhou's research addresses legal pluralism in a global context. At Columbia her research interests will revolve around making a critical study of Western theories of globalization and law. While in residence here, she will explore extending this focus to embrace the areas of constitutional law and international law.

PILI Fellows

The Center for Chinese Legal Studies enjoys an ongoing collaboration with the Public Interest Law Institute (PILI). This year the Center welcomed two PILI fellows from China based at Columbia Law School as visiting scholars, Li Xia and Yao Yao.

Li Xia

Staff Lawyer, Dongfang Public Interest and Legal Aid Law Firm and Assistant Research Fellow, Institute of Law, Chinese Academy of Social Sciences
At Columbia, Ms. Li is conducting research on administrative law, with a specific focus on China's administrative litigation and information laws. During her fellowship with PILI, Ms. Li's goal has been to develop a project on administrative public interest litigation in the U.S. and China.

Yao Yao

Director of Law and Public Participation, Civil Society Watch
Mr. Yao's work in China includes advocacy for the rights of people suffering from AIDS and advocacy on environmental protection. His work includes development of public hearings, litigation and capacity building with other NGOs. During his fellowship with PILI, Mr. Yao has been developing a project called, "People's Right of Access to Clean Water."



Visiting Scholars 2007-08

In addition to the Edwards and PILI fellows, the Center is hosting four visiting scholars and one postdoctoral fellow this year. They are Dai Ruijun, Ding Ding, Wallace Wen-yeu Wang, and Wang Xigen.

Dai Ruijun

*Lecturer, Center for International Law Studies,
Chinese Academy of Social Sciences*

Professor Dai is researching how human rights are implemented at the local, regional, and world levels. She is interested in how each entity resolves the differences in its law with U.N. law. Dai Ruijun is a Ford Fellow.

Ding Ding

*Professor and Associate Dean,
University of International Business and Economics*

Professor Ding's focus at Columbia concerns M&A activities in China. She is researching the U.S. regulatory regime to determine a way to make China's more open to foreign investors. Her ideas center on creating a dynamic system with transparent and clearly established rules. Ding Ding is a Fulbright Scholar.

Wallace Wen-yeu Wang

Professor of Law and Director of the Research Center for Economic and Financial Law, College of Law, National Taiwan University
Professor Wang's (LL.M. '83) specialties are corporate law,

financial law, and law and economics. At Columbia Law School his research focused on comparative corporate law.

Wang Xigen

Professor and Vice Dean, Law School, Wuhan University

Professor Wang's research interests at Columbia focused on the relationship between human rights and economic development. He views development as part of a new generation of human rights. He plans to use his research at Columbia to complete a series of articles on this subject as well as to draft a legislative proposal that recognizes the right of economic development.

Zhang Wenguang

*Assistant Professor of Law, Center for International Law Studies,
Chinese Academy of Social Sciences*

At the Chinese Academy of Social Sciences, Mr. Zhang served as deputy director of the Department of International Economic Law. He graduated with his LL.M. from Columbia ('07) and is currently a postdoctoral fellow at Columbia Law School.

John Oldham Fellowships 2007

The Center chose two students from Columbia Law School as Oldham Fellows for the summer of 2007. The fellowship, named for John Rochester Oldham ('83), supports work in the public interest or research in China. This year's Oldham Fellows were Peng Wu and Daniel Malech.



Peng Wu

Peng Wu ('09) set out to find out how practicing lawyers in two rural provinces of China evaluate prospective clients and how they decide which cases to bring into the official legal system. Wu spent a month in Xining, the capital city of Qinghai Province. In August she moved on to Guizhou, where she spent more time in smaller towns. She spoke with lawyers, legal workers, judges, procurators, government officials and a journalist. She focused in particular on the experiences of women lawyers. Her findings will be published in a student note.



Daniel Malech

Daniel Malech ('09) traveled to Hong Kong to work with Civic Exchange, a public policy think tank, on environmental concerns. Malech, with a fellow Columbia Law School student, Adam Krotman ('09), helped to assess a joint pilot scheme for emissions trading within Hong Kong and Guangdong's power sectors. They used academic and legal literature and statutes; economic and other data, and they conducted interviews with scholars and major stakeholders in the proposed project. The two students conducted a comparative analysis of the pilot scheme proposal which they finalized in a research paper. The paper included legal prerequisites and ideal design features of effective emissions trading regimes; a breakdown of environmental law in China and Hong Kong; and an analysis of how the proposed pilot scheme measured up.



The Shame Game: Reputational Sanctions in China's Securities Market

Although China's booming stock markets have become a focus of international attention, little Western scholarship has examined the role China's stock markets play as regulators of listed companies. In a forthcoming article, Columbia Law School professors Curtis J. Milhaupt and Benjamin L. Liebman argue that, contrary to common assumptions, China's stock markets may



Curtis J. Milhaupt

be transforming themselves into important regulators of listed companies. Their primary mechanism of doing this is through the public criticism of listed companies—which Milhaupt and Liebman show yields significant effects on listed companies and their executives. The paper discussing these findings, “Reputational Sanctions in China's Securities Market,” will be published in the May 2008 edition of the *Columbia Law Review*.

It is commonly thought that there are two distinct ways to develop the stock market. One approach is to regulate the market through formal legal protections for investors. The second is self-regulation of listed companies by the stock exchanges themselves.

China uses both approaches—although until recently it has been widely assumed that only the China Securities Regulatory Commission, not the stock exchanges themselves, has significant regulatory power.



Benjamin L. Liebman

Milhaupt and Liebman used both event-study methodology and extensive interviews with market participants to examine the effect of public shaming of listed companies. They found abnormal stock price returns both in response to disclosure of the misconduct which gave rise to the public criticisms and also upon publication of the criticisms themselves.

Interviews showed that the impact of criticisms of listed companies by the exchanges extends beyond the stock markets, as banks and bank regulators increasingly make use of the data and as companies that are subject to criticisms find that their ability to raise new capital is restricted.

China's scheme of securities regulation is evolving and includes several informal methods of corporate governance. Shaming is one, but it could not work without others, such as an active financial media. Effective regulation, both formal and informal, helps support China's continued economic growth. This paper helps shed light on how something as ephemeral as criticism can have significant effects. Indeed they suggest that publicly shaming wrongdoers may be one of the most effective means of addressing a range of problems stemming from the under enforcement of legal rules in China today.

Panel Discusses Justice in China

On November 2, Columbia Law School hosted a panel discussion on issues relating to access to justice in China. Titled, “The Challenge for China: Seeking Justice Within and Outside its Borders,” the panel was part of a day-long event, “Global Justice Forum: Current Developments in Cross-border Litigation.” The forum was co-sponsored by Lief Global LLP.

The China panel included four speakers, Donald C. Clarke, professor of law, George Washington University Law School and visiting professor, 2007-08 New York University Law School; Edward Lehman, partner, Lehman, Lee & Xu, Beijing,

China; Benjamin L. Liebman; and Yao Yao, director of law and public participation, Civil Society Watch, Beijing, China.

In their remarks, Mr. Lehman provided an overview of recent developments in Chinese law, noting that the overall trend in legal reform remains positive. Mr. Yao discussed the challenges of being a public interest lawyer in China. Professor Clarke discussed issues relating to forum non conveniens claims in U.S. courts handling cases relating to China. Professor Liebman discussed product liability law in China, particularly in the wake of recent international coverage of problems with Chinese exports of food and toys.

New Seminar on Corporate Governance in China

During the fall 2007 semester, Columbia Law School offered a new and innovative seminar, comparing the laws of corporate governance across the Taiwan Strait. The course, “Corporate Governance in Greater China,” examined important governance issues on Mainland China and on Taiwan, such as controlling shareholders, the role of boards of directors, affiliated transactions and the

regulatory framework and market conditions. This unique seminar with a dual perspective was co-taught by two outstanding professors from both sides of the strait, Tang Xin, associate professor, Tsinghua University School of Law and Wallace Wang-yue Wang, professor of law and director of the Center for Corporate Law at the College of Law, National Taiwan University.



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Please direct questions, comments or changes of address to Paulette Roberts (prober@law.columbia.edu).
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