

JUDICIAL AND LEGAL TRAINING IN CHINA
- CURRENT STATUS OF PROFESSIONAL DEVELOPMENT
AND TOPICS OF HUMAN RIGHTS

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Judicial and Legal Training in China**

- **Current Status of Professional Development and Topics of Human Rights**

Vincent Cheng Yang¹

1. Introduction: Creation of the World's Largest Training System

The past twenty-five years have seen the creation of the world's largest and most diversified judicial and lawyers training system in the People's Republic of China. Two and half decades ago, all China had were a few small "political and law" no-degree training programs delivered by a couple of law schools that had somehow managed to survive the Cultural Revolution (1966-1976)). Now it has hundreds of legal training institutions, including law schools, specialized colleges and centers for the training of judges, prosecutors and lawyers, junior colleges for administrative clerks and supporting staff in various sectors of the justice system. Today, China has the largest institutional establishment and probably also the largest single training facilities for judicial and legal training in the world. This institutional development is a most convincing evidence of the on-going historical transition of China to become a more modernized country under the rule of law. The long-term significance of this irreversible progress in a country that had suffered from thousands of years of feudalist dictatorship and over one hundred years of abuses by alien powers can never be overestimated.

There has been a constant growth and diversification of various Chinese judicial and legal training programs, which is a response to the rapid increase in the numbers of judges, prosecutors, practicing lawyers, public notary professionals, legal scholars and law students. There has been a massive increase of publications of Chinese textbooks and training materials in all fields of legal science. In 1979, there were some 58,000 people working in the courts in China, and no one really knew how many of them were legally trained professional judges.² Now, there are approximately 310,000 people

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² This figure is found in a speech of SPC President Jiang Hua at the 1979 National Working Conference of Chief Judges, see *Collection of Articles of Jiang Hua on Justice*, People's Court Press, 1989, p. 90. Based on a percentage number found in a SPC report in 1988, He Weifang believed the number of people working in the courts had reached 143,939 in 1982. However, he criticized that these figures were "incomplete" and did not tell the number of judges. See He Weifang, 1999, *The Ideas and Systems of Justice*. China University of Political Science and Law Press. pp.13-14.

working in the various courts. Over 210,000 of them are judges, and the vast majority of the judges have received at least college level training in law.³ In the late 1970s, there were no more than a couple of hundred practicing lawyers in China, mostly trained during the difficult years of the 1950s-1960s and subsequently lost or changed their law-related jobs during the Cultural Revolution (1966-1976). Now there is a new generation of hundreds of thousands of legally trained professionals, including over 110,000 practicing lawyers.

This population will continue to grow, at least for another two decades. In March 2002, over 360,000 people, trained at university or college levels, took part in a two-day State Judicial Exam (SJE) in China, in order to become qualified for the jobs of judges, prosecutors and practicing lawyers.⁴ This again set a record in human history, since no other country had ever held a law exam of this size.

The growth of the Chinese legal profession has had some significant impact on human rights. On September 28, 2002, for example, the Minister of Justice of China reported that after 7 years development, China had built 2,156 legal aid centers that were staffed by over 7,000 full-time legal professionals. These centers provided legal aid services to nearly 600,000 people during the past five years. And the system will continue to expand, given that “establishing a legal aid system” has become a priority of the Chinese government in accordance to the “Blueprint of the 10th Five-Year Plan of National Economic and Social Development”, which was adopted by the National People’s Congress in March, 2002.⁵

All of these are visible indications of an applaudable success. However, there are still a lot to do and improve in China. The professional status and quality of the Chinese judiciary are still relatively low in comparison with their counterparts in some of the developed countries. According to a recent report, of the 360,000 people who participated in the 2002 SJE, only 7% passed it. In some courts, none of the judges were able to pass the test. After 25 years of growth and improvement, it is still a recognized fact that the overall professional quality of Chinese judges and prosecutors is lower than that of the practicing lawyers. Approximately 70% of Chinese practicing lawyers have

³ See “Strike Hard to Reform for Fairness and Efficiency – An Interview with SPC President Xiao Yang”, *Legal Daily*, March 10, 2002. SPC News Release on March 10, 2002. http://www.court.gov.cn/channel7/xinwen_40.htm

⁴ See “Why is the SJE so hot?” *Legal Daily*, February 17, 2002. p.1

⁵ See the official China News Net (*zhong-xing-wang*) report on “Cheese legal aid system basically formed, 600,000 people aided in 5 years.” Sept. 29, 2002. In 1998-2000, Canada and China launched a Legal Aid Legislative Development Cooperation Project, making it the first Sino-foreign government-funded legal aid project in history. The author was fortunate to manage this project on the Canadian side. The Canadian International Development Agency is now preparing the launch of a 5-year legal aid project in China in 2002.

university degrees, and 30% only have college diplomas. The ratio among the Chinese judges is the opposite. In some courts, no judge has a university-level law degree.⁶

Overall, the size of the entire Chinese legal profession is still too small to meet the demand of the growth and modernization of China.⁷ Those Chinese judges and practicing lawyers who have not completed the LL.B level training will have to study more. Those who have obtained their law school degrees need to update their knowledge and acquire new working skills. The various training programs need to be consolidated and improved to enable the trainees to work more efficiently and follow the same legal and professional standards.

There is a need of more human rights education in the judicial and legal training programs. China has set its goal of building a “socialist country under the rule of law.”⁸ This will take place in an era of globalization, with the support of international assistance and cooperation. China has ratified the International Covenant on Economic, Social and Cultural Rights and is preparing to ratify the International Covenant on Civil and Political Rights. China has entered the World Trade Organization. In this context, Chinese judicial and legal training institutions will be seeking more assistance for the sharing of expertise and information regarding international human rights standards and their implementation in other jurisdictions.

This paper consists of five parts. It starts with an Introduction, which is followed by part two, an overview of the current status of Chinese judicial and legal training facilities, and part three, a general description of the various training programs. The paper, in part four, then examines the legal and regulatory framework, examples of the issues relating to the implementation of the ICCPR, as discussed in a recent Chinese-Canadian scholastic publication,⁹ as well as current conditions for the development of human rights training programs. This part of the discussion is presented in the context of on-going Chinese law reforms and new initiatives to promote legal professionalism in China. Law reform, policy development, legal research and legal training must all progress side by side. The

⁶ See “Many Judges Fell in SJE,” *South Weekend*, July 11, 2002.

⁷ In the early 1980s, Deng Xiaoping, then the paramount leader of China, proposed that China would need one million lawyers. To date, it is still a common belief in China that there is a shortage of lawyers. Nonetheless, some scholars have argued that the country has too many judges. Tan Shigui (ed.), 2000, *Research on Judicial Reform in China*. The Law Press. pp.95-96.

⁸ This goal of development was officially announced by the President Jiang Zheming at the 15th National Congress of the CPP in 1998. Although critics in some western countries are still questioning the meaning of this concept, Chinese legal scholars and practitioners generally agree that this is an announcement of a stronger political commitment to the transition to the rule of the law in China.

⁹ The research product was recently published as a book. See Chen Guangzhong, Cheng Weiqiu and Vincent Cheng Yang (eds.), 2002, *A Study on Issues in Ratifying and Implementing International Covenant on Civil and Political Rights*. China Legal System Press.

last part of the paper concludes that the international community can provide important assistance to the development of training for judges and lawyers in China, although the results will depend on the commitment and wisdom of all the stakeholders.

2. Judicial and Legal Training Facilities

In general, Chinese judicial and legal training facilities are divided into two large categories: (1) law schools, law universities and justice colleges; and (2) specialized judicial and professional training centers or other organizations. These facilities provide training to those who want to join the legal profession and those who are already in the judiciary or practicing the law as lawyers.

2.1. Law Universities, Law Schools and Colleges

Unlike most developed countries, where judges would receive their law degrees long before they become judges, many Chinese judges do not have law degrees. From the late 1970s to the 1990s, many Chinese judges or court officials would in fact attend the law schools after they are appointed to the bench. Therefore, law school training in China is very important not only to ordinary law students, but also to those who are already working as the judges in the courts.¹⁰

At present, there are at least 80 law schools and law universities in China. Among them, at least 25 are in four large cities directly under the national government. The largest law schools are five law universities. These are universities of law rather than law departments in universities. They were administered by the Ministry of Justice, mandated to provide large number of legally trained university graduates to the courts, procuratorates, law firms, notary publics, governmental and company legal offices and other legal institutions. Each university has 1,000-2,000 staff members (including 500-800 teaching staff) and over 5,000 law students. They also provide various distance education programs and college-level on-job training programs for judges, prosecutors, police officers, government officials and other legal workers. These law universities are no longer under the administration of the Ministry of Justice because of a major downsizing of the Central Government in the late 1990s.

The five law universities are:

¹⁰ In the 1980s, the author taught some classes of “officials” at East China University of Political Science and Law in Shanghai. The students in these classes were mostly judges, prosecutors and police officers who had not received formal law school training. Since 1996, this author has observed and lectured to several judge-training classes in China. Many of the judges in these classes still have no law degrees. Most of them however have degrees or college diplomas in other academic disciplines.

- (1) China University of Political Science and Law (CUPSL) in Beijing. This is the largest law school in China. Established in 1952, it changed its name from Beijing Institute of Political Science and Law to the current one in 1983, when the Ministry of Justice of China announced that this University would become “the national base” for the training of legal professionals and the national center for legal information. The University is currently under the administration of the Ministry of Education.
- (2) East China University of Political Science and Law in Shanghai. This university is responsible to enroll students from and deliver training to people in Shanghai and six provinces in the East China region.
- (3) South-West China University of Political Science and Law in Chongqing. This is perhaps the second largest law school in China. Its training programs cover the South-West China region consisting of Chongqing and several provinces.
- (4) North-West China University of Political Science and Law in Xian. This is the leading law school in the North-West China region, which includes some of China’s least developed areas and several minority areas.
- (5) South-Central China University of Finance, Economics, Political Science and Law in Wuhan. This long-name university is a result of a recent merger between the South-Central China University of Finance and Economics and the South-Central China University of Political Science and Law. The latter was the leading law school in the South and Central China region, which consists of Guangdong and five other provinces.

These are universities or “institutes of political science and law,” a name apparently created during the 1950s, when Soviet law professors were invited to teach in China and law was considered as a tool of politics.

Prior to the late 1990s, the Ministry of Justice was responsible to provide funding support to these large law universities. It also had the power to select and appoint the heads of the universities. Now, the Ministry of Education provides funding support to China University of Political Science and Law, and the relevant provincial and municipal governments provide funds to the other law universities.

To appreciate the size of these law universities, one may look at the organization of academic departments in China University of Political Science and Law. This University has these teaching sections:

- (1) five schools: the School of Graduate Students, the School of Adult Education, the School of International Education, the School of Political Science and Management, and the School of Social Engineering;
- (2) four departments: Department of Law, Department of Economic Law, Department of International Economic Law, and Department of Foreign Languages;

- (3) five research institutes: Research Institute of Chinese Legal System, Research Institute of Chinese Legal History, Research Institute of Comparative Law, Research Institute of Ancient Legal Materials, and Research Institute of Sociology and Juvenile Delinquency; and
- (4) fifteen other research centers, including the Center for Criminal Law and Justice and the national Procedural Law Research Center.¹¹

Aside from the law universities, there are many university-based law schools and law departments. Beijing has more law schools than any other cities. The best-known ones in Beijing are the Renmin University Law School and the Beijing University Law School, both originally had more interest in fostering academic researches and the training of legal scholars rather than career training. In recent years, however, these law schools have been fully engaged in the training of legal practitioners. For example, the Beijing University Law School has been very active in working with the Supreme People's Court and the Supreme People's Procuratorate in delivering training programs to judges and prosecutors in Beijing.

Shanghai has about 10 law schools, including the Fudan University Law School. These law schools have developed a stronger capacity in commercial and economic laws. Tianjin and Chongqing both have several law schools. The rest of the Chinese law schools spread in various provinces. Some of them are strategically located and very well established, such as the Wuhan University Law School in Wuhan, Jilin University Law School in Jilin, Sichuan University Law School in Chengdu, and Zhongshan University Law School in Guangdong. In general, all of these law schools provide training programs for both ordinary students and various legal practitioners including judges, prosecutors and practicing lawyers.

In addition, the national television broadcasting station CCTV runs a "Television University," which has a long-distance college-level law program. Many Chinese judges and lawyers received their legal training by attending this program.

At the provincial level, there are post-secondary justice colleges or junior colleges. Unlike the law schools, these justice colleges usually do not have law degree programs. Their graduates are more likely to become clerks in courts and junior supporting staff members in legal and justice institutions. These colleges also provide some training to justice officials.

2.2. Specialized Training Colleges and Centres

¹¹ See The 50th Anniversary of China University of Political Science and Law, anniversary information package compiled and distributed by the University during the anniversary ceremony events in May 2002. The author has been appointed an overseas adjunct professor at the Procedural Law Research Centre. The Centre has built some important contacts with foreign legal institutes. See www.procedurallaw.com.cn.

A feature of the Chinese legal training system is the network of specialized on-job internal training colleges and centers. The Supreme People's Court administers two training institutes: the National Judges College and the SPC Spare-time University (*ye yu da xue*). Both institutions are located in Beijing. Their trainees are basically judges and incoming judges, or those who are staff of the courts and want to become judges. The National Judges College provides short-term (less than one year) on-job training to senior judges. Its instructors are full-time professors at the College and some adjunct professors who are senior judges and jurists.¹² The Spare-time University mainly provides long-term (over one year) on-job training, often conducted in the evenings. A trainee graduated from such a program will receive a certificate or diploma of university or college level education, which would help him to apply or maintain the job of a judge. From 1988 to 1993, over 70,000 staff members of the various courts graduated from the SPC Spare-time University with certificates.¹³ However, starting from 2002, the college diploma is no longer sufficient. And starting from 2003, those who want to become a judge will need to have a university-level education background in order to get the permission of writing a State Judicial Exam.

Beijing is also the location of the National Prosecutors College. The structure and the mandate of this College are almost similar with the Judges College, although the trainees are mostly senior prosecutors. The College has had different kinds of programs, including short-term (from 2 weeks to six months) advanced training programs for senior prosecutors, long-term law certificate or college diploma program for young students, and programs for special groups (e.g., Chief Prosecutor Seminars, Minority National Prosecutor Training Program), special topics (e.g., Chief of Anti-corruption Bureau Program) or for the development of special skills (e.g., Training the Trainer Program, English Program).¹⁴ Like the Judges College, the Prosecutors College has its own full-time teaching staff and adjunct professors.¹⁵

The National Judges College, the Spare-time University of the SPC and the National Prosecutors College have local branches in all the provinces. These branches are also the provincial training centers for judges and prosecutors. They provide training to judges and prosecutors in the relevant provinces. Every provincial High People's Court has a judges training center and a Spare-time University Branch. Every provincial People's

¹² The information is based on this author's observation during his visit to the Judges College and his discussions with judges and scholars who have taught in this College.

¹³ *People's Court Daily*, January 27, 1994, cited in He Weifang, *supra* note 2, p.21.

¹⁴ During a meeting of the author with College officials in 2002, the author was advised that the College Diploma program had been discontinued in recent years because the College decided to concentrate more resources on the short-term training programs.

¹⁵ Most teaching adjunct professors are senior prosecutors from the Supreme People's Procuratorate and well-known jurists from other law schools. The author was appointed the first overseas visiting Professor at the College in 1997-2000.

Procuratorate also has a prosecutors training center and an Education Branch. The teaching curriculums used in provincial judges or prosecutors training centers are mostly consistent with, or similar to, those of the national colleges. The SPC is responsible to financing its National Judges College and the Spare-time University. The SPP funds the National Prosecutors College. The provincial high courts and procuratorates provide financial and personnel resources to their training centers and the Spare-time University branches.

As for practicing lawyers, a provincial bureau of justice usually manages a justice-training center, which is often set up in a college of justice in the province. The justice colleges provide college or junior college level training to young students and those who need a college law diploma, whereas the training centers provide short-term training to practicing lawyers and justice officials. Some of the training are mandatory, even to self-employed lawyers. In Shanghai, for example, every practicing lawyer must participate in a 2 week training program every year in order to get his license renewed.¹⁶

In addition, there are provincial-level “schools of the administration of political and legal cadres” and other types of justice training facilities in China, which also provide legal training programs to judges, prosecutors, justice officials and practicing lawyers.¹⁷ For example, the Hainan Provincial School of the Administration of Political and Legal Cadres runs training programs for judges, prosecutors and justice officials.¹⁸ Many people have also become judges and lawyers after attending the Television University law programs.

The boom of such a variety of judicial and legal training facilities in China during the past twenty-five years is unprecedented in legal history. Some scholars have started to question if China has created the largest troop of judges in the world and has too many people working as judges.¹⁹ Still, law will remain as the most competitive academic discipline in university and college enrolment, and the number of judicial and legal training institutions will continue to grow. The overall trend of continuous growth is determined by two basic factors: first, a strong demand in the market of legal services,

¹⁶ The author was a practicing lawyer in Shanghai and has monitored the development of this training system in these years. The updated information is based on his interviews with lawyers and justice officials in Shanghai during 1998-2001.

¹⁷ For example, the national Chinese People’s Public Security University and provincial Public Security Schools also have a legal program for those trainees whose major is in the science of “legal system”. Some of the faculty members in these police academies are lawyers. This information is based on the author’s visits to the Public Security University, the Guangdong Public Security School, the Shanghai Public Security School and several other academies during 1998-2001.

¹⁸ This is based on the author’s meetings with officials of the School and an on-site observation of a training program in Hainan in 2000.

¹⁹ See Tan Shigui, *supra note 7*, p.105.

since China has only got over 110,000 lawyers practicing the law; and second, the need to constantly improve the professional quality of Chinese judges and prosecutors.

3. Existing Training Programs

Many Chinese judges, prosecutors and practicing lawyers, especially those who are new and young, attend formal law school LL.B and LL.M or Master of Law programs. Some of them have managed to attend these programs on a full-time basis, with tuition and full salaries paid by their employers. More people have attended the various college-level law school programs on a part-time basis, or did it in the evenings and weekends. Also, unlike in any other country, virtually all the Chinese judges, prosecutors and practicing lawyers are required to attend short-term training programs from time to time.

The Chinese training institutions provide various programs in light of their mandate and institutional capacities. The teaching materials, courses and methodologies are designed and determined accordingly.

The law universities and law schools offer ordinary university-level and college-level law programs and sometimes provide special training programs to judges and legal professionals. The Beijing University Law School serves as an example for this review, since it offers both kinds of programs.

3.1. Full-time LL.B and LL.M. Programs at Beijing University

At Beijing University Law School, there are four categories of courses:

(1) Courses of Theoretical Legal Science. For this portion, the current LL.B program curriculum has listed Theories of Jurisprudence, Sociology of Law, Contemporary Western Jurisprudence, and interestingly enough, the First Amendment to the United States Constitution.

The LL.M curriculum also has a course on American Constitution, in addition to Research Method of Legal Studies, Special Topics on Roman Law, and Sociology of Law. Beside, students can choose the “selects”, such as Jurisprudence and Social Theories.

(2) Courses of Applied Legal Science. The LL.B program requires the students to study a number of law courses that are directly relevant to the practice of the law by lawyers. Interestingly, Environment Law, which was hardly known to law school students fifteen years ago, has become a required course in the LL.B. program. The “selects” in this portion of the LL.B program are Internet law, Technology/Economy and Law, Labor Law and Social Protection Law, General Part of Civil Law, International Financial Law,

and so on. In addition, courses are taught for research on some “special topics”, including “WTO Law,” and Internet and Law.

The LL.M. program offers some courses of advanced research interest, such as Special Topics on International Financial Law. Some of these courses are taught by foreign professors.²⁰

In any given year, the Beijing University Law School teaches 50-60 LL.B program courses. This following list is to help international observers to have a basic idea about what are taught in a four-year law school program.

In Semester 1 of Year 2000-2001, the Law School taught these courses to its LL.B students:

(1) Class 97 courses: International Environment law, Comparative Justice Systems, Criminal investigation, Schools of Thought in Jurisprudence, Anglo-American Law on Tort, Civil Law, Criminal Law, Criminal Procedure, Competition Law, Financial and Banking Law, Practical Matters of Lawyers, Laws on International Organizations, Methodology of Legal Science, and International Aviation Law.

(2) Class 98 courses: Deng Xiaoping’s Theories, Administrative Law and Administrative Litigation Law, Private International Law, Public International Law, Laws of Intellectual Property, Enterprise and Company Law, Family Law, Taxation Law, Environment Law.

(3) Class 99 courses: Basic Theories of Marxist Philosophy, Criminal Procedural Law, Law of Property Rights, History of Western Jurisprudence, History of Western Legal Systems, and Forensic Science.

(4) Class 00 courses: General part of Criminal Law, Theories of Jurisprudence.

(5) Class 99 major in intellectual property: Copyright Law, Patent Law, Trademark Law, Contract Law, Enterprise/Company law, Competition Law, Taxation Law, Financial and Banking Law, and Practical Matters of Lawyers.

In the Semester 2 of Year 1999-2001, the Law School taught these courses to its LL.B students:

(1) Class 98 courses: Civil procedural law, Criminology, History of Chinese jurisprudence, General part of commercial law, and Economic law.

²⁰ For example, the course, “Internet Multimedia Program: The Control of Financial Institutions”, is taught by Professor H.E. Jackson from Harvard Law School.

(2) Class 97 courses: International Economic Law, International Financial Law, Labor Law and Social Protection Law, Laws on International Technology Transfer, Sociology of Law, Insurance Law, and International Investment Law.

(3) Class 96 courses: Foreign Criminal Law, Legal English, Laws of Criminal Execution, and Foreign Procedural Law. For this class of fourth year students, the Law School also teaches a course of International Human Rights Law.

In Semester 1 of Year 1999-2000, the Law School taught these LL.M program courses:

(1) Class 99 courses: Selected Readings of Marxist Classics of Jurisprudence, General Part of Criminal Law, Special Topics on Laws Relating to Juveniles, Laws on Criminal Execution, Fair Transaction Law, Special Topics of Foreign Legal History, Special Topics for Research on Administrative Litigation Law, Special Topics on Western Jurisprudence, Sociology of law, Intellectual Property Law, State Compensation Law, and Special Topics for Research on Property Rights Law.

(2) Class 99-98 courses: Western Economical Jurisprudence, Comparative Justice Systems and Procedures, Law of Criminal Evidence, Empirical Study of Law, Aviation Law, Chinese Criminal Law, Basic Theories of Laws on Technology, General Part of International Law, Science of Research Materials in Chinese Legal History, Issues on Internet Law, Laws for the Prevention and Control of Environmental Pollution, Constitutional Law, Civil Procedure, Specific Part of Criminal Law, Special Topics of Family Law, and Computer Law.

(3) Class 98 courses: Criminal Policy, Labor Law and Social Protection Law, International Taxation Law, Commercial Law, Roman Law, and Legislative Research.

The course lists indicate that the Chinese law school programs are at least as comprehensive as the counterpart programs in other jurisdictions in the world. In addition, unlike the LL.B programs in many other jurisdictions, the Chinese law schools usually require the students to produce a thesis and participate in a pre-graduation articling practice to earn a LL.B degree. Similarly, the LL.M students are also required to complete and defend the theses. In this respect, one would tend to conclude that Chinese judges and lawyers who have had a LL.B or a LL.M program training background are as professional as their western counterparts.

For those who are seeking for appointment/employment or better positions in Chinese justice institutions, a graduate degree, especially a doctoral degree, is very helpful, and a LL.B is often not enough. Academic expertise is considered an asset in the selection of some senior judges. For example, in recent years, the Supreme People's Court appointed two law professors in their 40s of age Vice Presidents of the Court. Graduate programs,

especially those at the doctoral level, are becoming increasingly attractive to Chinese judges and lawyers.²¹

The China University of Political Science and Law in Beijing alone offers 15 LL.M. programs, including legal theories, legal history, constitutional law and administrative law, criminal law, civil and commercial law, procedural law, economic law, environmental and resources protection law, international law, and others. It also has five doctoral degree law programs: Chinese legal history, civil and commercial law, procedural law, economic law and international law. The law schools at Beijing University and Renmin University offer even more LL.M. and Doctor of Law programs. In China, however, doctoral programs are only available in large law schools that are located in a few large cities. Most Chinese law schools are not qualified to established doctoral programs because of the lack of influential scholars and recognized publications.²²

3.2. Training Programs for Judges, Prosecutors and Practicing Lawyers

Chinese law schools offer various special programs for judges, prosecutors, practicing lawyers, justice officials and police officers. In the past, there were short-term training programs on specific legal topics, 2-3 year college-level diploma programs, and so on. Now, the law schools have started to offer special university-level programs for them.

The Beijing University Law School currently offers three long-distance university-level programs: a program jointly developed with the Supreme People's Court of China to provide university-level law school training to judges, a program jointly developed with the Supreme People's Procuratorate of China to provide university-level law school training to prosecutors, and a program jointly developed with the All-China Lawyers Association to provide university-level law school training to practicing lawyers.

The three programs target different groups of trainees, but the philosophy and methodologies are similar. Therefore, the 3-year LL.B long-distance education program for members of the All China Lawyers Association in Beijing may serve as an example for this review.

The Program enrolls students who have graduated from college-level law programs. Most of these students appear to be lawyers who either attended college-level law school education in law schools or have only had legal training in institutions other than law

²¹ Starting from the late 1990s, judges and prosecutors with graduate degrees have been given the priority for promotion.

²² The number of doctoral programs is an important indicator of the academic status of a law school in China. Unlike in North America, Chinese professors need to be officially promoted to the rank of "doctoral supervisor" in order to supervise the doctoral students. To apply for such a promotion, the candidate must already have the title of full professor.

schools or law universities. According to Program description, the Program aims at helping the students to “systematically obtain the knowledge of legal theories and laws, development of laws in China and abroad, and be able to read legal materials in a foreign language.” Graduates from this program will be able to correctly understand laws and policies, and use their legal skills to handle legal matters, deal with legal disputes, work in legal institutions, conduct legal research, education and other law related work.²³

The Program requires the students to acquire a total of 85 credits based on 1,880 teaching-studying hours. The students are expected to spend about three years (i.e., 6 semesters) to finish the study in this Program. The minimum of the duration of study is 2 years, and the maximum is 6 years, depending on the number of courses the students choose to take per semester.

The Program offers three types of courses.

(1) Required Law Courses (44 credits in total, 4 credits and 80 teaching-studying hours per course), including Criminal Procedural Law, Contract Law, Enterprise-Company Law, Chinese Legal History, Civil Procedural Law, Economic Law, International Law, Administrative Law and Administrative Litigation Law, Law on Intellectual Property, Private International Law, and International Economic Law.

(2) Selected Law Courses (16 credits in total, 3-4 credits and 60-80 teaching-studying hours per course), including Jurisprudence, Constitutional Law, Taxation Law, General Part of Civil Law, General Part of Criminal Law, Specific Part of Criminal Law, Marriage and Family Law, Labor and Social Protection Law, Environmental Law, Financial and Banking Law.

(3) Required Non-Legal “Common” Courses (in total, 15 credits and 300 teaching-studying hours), including Deng Xiao-ping’s Theories and English. The former is a 3-credit course, which takes 60 teaching-studying hours and finish in one semester. The focus is clearly on the latter, which gives 12 credits and takes a total of 240 teaching-studying hours in 4 semesters.

Similar to standard Chinese law school degree programs, this Program also requires every student to write a graduation thesis (5 credits, but no teaching-studying hour is allocated to it), and participate in “graduation practice” (5 credits, no teaching-studying hour allocated) and pass both.

The special Program apparently does not have any specialty in teaching methodology. It applies the standard law school methods: lectures and seminars, self-study, group discussions, pre-class preparation and after-class reviews, supervision and assistance by

²³ This is described in Beijing University Law School Long-distance “College to University” Education Program advertising materials.

teachers, questions and answers, and examinations. However, at Beijing University, there are usually more seminars on interesting topics than most other universities. The ratio between ordinary lectures and special-topic seminars in this Program is, for instance, from 2:1 to 3:2. The Program also uses ordinary teaching materials, such as textbooks, reference materials, and video-audio materials.

Chinese law schools and training centers provide a large number of short-term training programs for judges, prosecutors and practicing lawyers. International donors have supported a few of them mainly by cash contribution. For example, back in 1995-1996, the Ford Foundation funded a 4-6 month judge-training program at South-Central China University of Political Science and Law in Wuhan. This program taught 4 basic courses, including “Judicial Ethics,” Evidence, Sociology of Law, and Comparative Justice Systems. It also offered seminars on 21 topics, such as “Jurisprudential Issues in the System of Justice,” “Justice System and Constitutional Politics,” “East and West Cultures of Justice,” “Traditional Chinese Systems of Justice and Contemporary Concepts of Law,” “Issues of Trial Procedure,” “Methodology of Scientific Thinking in Trial,” “Main Issues in the Reform of Court Trails,” “Specialization and Professionalism of Justice,” “Damages in Justice and Compensation for Wrong Judgment,” “Market Economy and Economic Crime,” “Human Rights Protection in Criminal Law,” “International Norms and Chinese Legal Protection of Intellectual Property,” “Product Liability and Consumer Protection,” “New Contract Law and Its Operation in Justice,” “Regulations of Actions of Financial Instruments and Trails of Relevant Cases,” “Regulations of Financial Actions and Trial of Relevant Cases,” “Theories and Practice of Combating Unfair Competition,” “Company Law and Contemporary Enterprise System”, and “Issues of Judicial Reviews in China.”²⁴

4. The Promotion of Professionalism and Human Rights

The development of judicial and legal training will continue to promote professionalism among Chinese judges, prosecutors and practicing lawyers. Human rights education has become an important component in this development. This is mainly because that most key elements of internationally recognized human rights are also written in the Chinese laws, taught in Chinese legal training programs, tested in judicial and legal exams, and promoted through the various kinds of reforms during the past two and half decades. However, well tailored international assistance on human rights will still be helpful to China in further reforming its legal system and improving the training programs.

4.1. The Current Legal and Policy Framework

²⁴ South-Central China University of Political Science and Law, “Application to the Ford Foundation for Funding Support,” April 12, 1995. In 1996, this author was a member of a Ford team of experts to assess this program.

The effective delivery of a training program on international human rights standards in China requires a favorable framework in domestic laws and policies. Many of the laws in China are relevant to human rights. In particular, those that are directly relevant to basic human rights include, among many others, the Chinese Constitution, the Election Law, the Administrative Litigation Law, the State Compensation Law, the Labor Law, the Marriage Law, the Law of Criminal Procedure, the Criminal Law, laws on women and children's rights, the rights of the elderly, the Judges Law, the Prosecutors Law, the Lawyers Law.

The Chinese government has published some official reports on human rights in China, namely the *China Human Rights White Papers*, during the past eleven years. According to these reports, China has progressed well in improving its laws and policies regarding human rights, especially during the past twenty-five years. Prior to 1977, "human rights" was not a topic for open discussion, there was hardly a formal legal system in China, there was hardly a real trial, whereas judgments and rules were made by vaguely defined policies that were subject to arbitrary decisions behind closed doors. Now a comprehensive system of better-defined laws and policies is undoubtedly in place.

The first Chinese White Paper on human rights, released on November 1, 1991, describes the basic position and policies of the Chinese Government concerning human rights. Although international critics may disagree with the proposition that the right to live is the most important human right, it would be ignorant to deny that the people in China now enjoy a much broader range of rights and freedoms than ever before, including more procedural safeguards of their rights in legal proceedings. As usual, it is also emphasized in the White Paper that the situation of human rights in a country is subject to the limitations of the historical, social and economic conditions.²⁵

The various White Papers are consistent in reporting progress in human rights, such as enactment of new laws, creation of new institutions or remedies, improvement in the judiciary, growth of the legal profession and better treatment of offenders. These documents also report on China's cooperation with the international community for the promotion of human rights.²⁶

²⁵ See *Human Rights Status in China*, a State Council News Office publication in 1991 (released on Nov. 1, 1991). Other White Papers released by the same Office include *Sovereignty and Human Rights Situation in Tibet* (Sept. 22, 1992), *Situation of the Reform of Offenders in China* (August 10, 1992), *Current Situation of Women in China* (June 1994), *Progress in Human Rights Development in China* (December 1995), *Situation of Children in China* (April 1996), *Situation of Religious Freedom in China* (October 16, 1997), *New Progress of Human Rights Development in Autonomous Region of Tibet* (February 24, 1998), and so on.

²⁶ See, for example, *Progress in Human Rights Development in China*, a State Council News Office publication in December 1995.

These government reports are informative, but there is a need of more in-depth legal and empirical analyses to explore and address the real legal and practical issues.

In 2002, in cooperation with the International Centre for Criminal Law Reform and Criminal Justice Policy in Vancouver, Canada, scholars in the Centre for Criminal Law and Justice at China University of Political Science and Law published a book entitled *A Study on Issues of Ratifying and Implementing International Covenant on Civil and Political Rights*. In this major publication, the Chinese scholars have identified some of the remaining issues that will have to be addressed before the ratification of the Covenant. For example, they point out that the use of death penalty in China should have some more restrictive limitations; that torture needs to be more effectively prevented; that changes should be made to the system of Re-Education Through Labor by transforming it into a judicial process; that the present legal procedures for detention and arrest need to be improved; that external interference to the judicial independence must stop; that the Law of Criminal Procedure should clearly recognize the right to remain silent, and so on.²⁷

A review published at the end of 2001 lists the following topics as “the 10 hot topics of the science of law,” which indicates the areas that are most interesting to Chinese law reforms: the “judicialization” of the Constitution, enactment of a code of civil law, the protection of human rights, state compensation, judicial reforms, a unified law of evidence, internet law and regulations, WTO and law reform in China, improvement of company law and security law, and the regulation of market order.²⁸ Interestingly enough, improvement in the protection of human rights is on the list, and most of the other topics are also related to fundamental human rights. The finding of research on these topics could be well used in human rights training programs for Chinese legal professionals.

To many international observers, these are indeed some of the most pressing “rule of law and human rights” issues in China. For example, previous China-OHCHR human rights workshops have also touched upon the issues of Re-Education Through Labor, as well as human rights in policing and prison administration.

4.2. Training Curriculum and Materials

²⁷ See Chen Guangzhong, Chen Weiqiu and Vincent Cheng Yang (eds.), 2002, *A Study on Issues of Ratifying and Implementing International Covenant on Civil and Political Rights*. China Legal System Press. The conclusion remarks are in fact seen in the Recommendations on Ratification and Implementation of the International Covenant on Civil and Political Rights in the book, at pp. 503-556.

²⁸ “Review of Hot Topics in Chinese Legal Science in 2001”, *Legal Daily*, Dec. 30, 2001. p. 3.

In the Beijing University Law School degree program for judges, prosecutors and lawyers, the course curricula are mostly similar to the standard ones used in ordinary LL.B programs.

As seen in the Appendix of this paper, which includes the course curricula of Constitutional Law and Criminal Procedural Law in the Beijing University Law School program, some important human rights topics are already covered in standard Chinese judicial and legal training programs. The course of Constitutional Law covers the general topics of constitutional rights, such as the roles and functions of the Constitution in protecting human rights, the philosophical origins of Constitutionalism, the constitutional limits of State powers, the rule of the law, and the various fundamental rights and freedoms under the Constitution. The course of Criminal Procedural Law teaches various topics of procedural rights, including the basic rights in both the pre-trial and the trial-appeal processes.²⁹

There is no lack of law textbooks and teaching reference books for any level of judicial and legal training programs in China. For example, the West Lake Law Bookstore also has listed approximately 400 titles for law school LL.B programs, 40 titles for college-level programs, 60 titles for adult training programs, and 200 titles for the preparation of State Judicial Exams.³⁰ Many of the books address certain aspects of human rights in the relevant areas of laws.

China has also published some books and resource materials on international and domestic human rights laws. For example, the Human Rights Research Centre at Beijing University Law School recently published a resource book entitled *Selection of International Human Rights Instruments (21st Century Series of Textbooks and Reference Materials)*. This is a collection of 51 important instruments, including the International Bill of Human Rights, human rights action plans and declarations, conventions and other instruments on self-determination, racial and gender discrimination, women's rights, children's rights, slavery and forced labor, human rights in law enforcement, freedom of the press, freedom of association, employment, social welfare and the right of development, nationality and refugees, war crime and crimes against humanity.³¹ These

²⁹ Based on interviews with Chinese professors and observations of teaching activities, this author found that human rights topics are becoming increasingly important in the teaching of Constitutional Law and the Law of Criminal Procedure in Chinese law schools. In the past eight years, the author was also invited to give series of lectures on human rights to Chinese law students.

³⁰ A "title" refers to a book or a "series" of books. Different publishers may use different listing methods.

³¹ Human Rights Research Centre at Beijing University Law School, *Selection of International Human Rights Instruments (21st Century Series of Textbooks and Reference Materials)*. Beijing University Press, 2002.

books have been used in Chinese law school programs. They can also be used in specialized human rights training program for judges and other legal professionals.

China has also developed codes of ethics and conduct for judges and practicing lawyers in accordance with the general rules in the Judges Law, the Prosecutors Law and the Lawyers Law. The justice bureaus and lawyers associations are responsible to the enforcement and compliance of the code of ethics for practicing lawyers.³² The Supreme People's Court has set it as a priority to enforce its Code of Ethics for Chinese judges in recent years as part of the initiative to fight judicial corruption.³³

Scholars at Chinese judicial research institutes have also produced publications on the professional roles and standards of judicial functionaries. Some of these books were produced with assistance from the international community and involved international experts.³⁴

4.3. The SJE - Uniform Standards for Legal Professionals

To raise the professional standards of the Chinese judiciary and lawyers, a most recent reform is the introduction of the unified State Judicial Exam (SJE) in 2002. This change will push all the judicial and legal training programs to adopt some unified curricula and standards, including those that are directly relevant to the promotion of human rights.

Starting from 2002, any person who wants to be qualified to work as a judge, prosecutor, or become a practicing lawyer or a public notary, will have to pass a unified SJE to obtain a Certificate of Legal Profession Qualification. In the past, there were different kinds of legal professional exams that were administered by different institutions: some by the courts for judges only, some by the procuratorates for prosecutors only, and the Lawyers Qualifications Exam (LQE) administered by the Ministry of Justice for those who wanted to become practicing lawyers. The exams for judges and prosecutors were internal, not open to the public. The LQE was the main exam that would attract a large number of participants.

In 2001, China amended its Judges Law, Prosecutors Law and the Lawyers Law to raise the professional qualifications of legal professionals. According to the amended Judges Law, Prosecutors Law and the Lawyers Law, judges, prosecutors and practicing lawyers in principle shall have either received university-level law school education, or graduated from other university-level program and have obtained the knowledge of a legal

³² *Ethics and Disciplines of Lawyers in Practicing the Law*, Law Press, 1996.

³³ *Code of Ethics for Judges in the People's Republic of China*. People's Court Press, 2002.

³⁴ For example, see Zhang Zhi-hui and Vincent Cheng Yang (eds.), *The Roles and Standards of Prosecutors – A Comparative Study*. China Procuratorate Press, 2002. This book presents some detailed discussions on the roles of procuratorates in protecting human rights in accordance with Chinese and international laws and standards.

professional.³⁵ In the 2002 SJE, over 50% of the participants only had a college-level law diploma, rather than a university-level law degree. These people were allowed to write the exam with a permission of the Ministry of Justice. The permission is however exceptional, and will not be extended to next year. For the 2003 SJE, all participants must have a university-level legal education before they write the exam.³⁶

On March 30-31, 2002, China held its first SJE. Over 360,000 people participated in it, a nearly 65% increase from the number of participants (220,000) in the last LQE, which was held in 2000. Of the 360,000 participants, about one-third were staff members of the courts, procuratorates, police departments and other workers in the field of law and justice.³⁷ According to the Chinese media, only 7% of the 360,000 participants passed the exam, but this result is considered quite reasonable in comparison with the rates in judicial exams in Japan and Hong Kong.³⁸

The same exam papers are used in hundreds of locations throughout the country, but the test can be conducted in a minority language in a minority area. Those who want to write a SJE must also have a record of good behavior, and those who are caught cheating in a SJE are banned to write it again for two years or for life.³⁹

The SJE is mainly designed to test the legal knowledge of the tested persons and their ability to join the legal profession. This annual closed book SJE includes a broad range of questions that are divided into four categories: “theoretical legal science”, “applied legal science”, provisions in current laws, and legal practice and ethics. Every category would not only test the legal techniques, but also touch upon certain standards and norms of human rights. For example, “theoretical legal science” would address issues such as the concept of the rule of law, basic rights and freedoms, and the relationship between the state and the individuals. “Applied legal science” would include the knowledge of criminal law, civil law, family law, procedural laws, labor law, environmental law, laws on women and children, and laws on association, trade unions, press and religions. These are laws dealing with the most practical aspects of human rights and fundamental freedoms.

4.4. New Initiatives of Judicial Reforms

³⁵ Judges Law, Article 9; Prosecutors Law, Article 10; and the Lawyers Law, Article 6.

³⁶ See Public Notice of the Ministry of Justice Regarding the Implementation Methods of State Judicial Exam, Dec. 30, 2001.

³⁷ “Why is the SJE so hot?” *Legal Daily*, February 17, 2002. p.1

³⁸ *Supra note 5*. According to the report, the average passing rate of the Judicial Training Institute Entrance Exam in Japan is 3%, and the rate for the selection of candidates for the judiciary in Hong Kong is 2%.

³⁹ See Implementation Methods of State Judicial Exam, jointly issued the SPC, SPP and MOJ in their “Notice No. 2” on January 1, 2002.

A most important feature of judicial and legal training in China is that it progresses along with constant reforms to the judicial system and the overall legal system.

Justice Xiao Yang, President of the Supreme People's Court, in an interview with the Chinese press before the National People's Congress session in March 2002, reviewed recent progress in the SPC initiatives to improve the quality of Chinese judges through reform and training. Since January 1, 2002, when China's revised Judges Law became effective, the SPC's effort to promote professionalism through judicial reforms and training has entered into a new phase of development. According to Justice Xiao, starting from January 1, candidates to be appointed as new judges must pass the SJE, and those who are already appointed judges but do not have the professional qualifications required by the new Judges Law will be removed from their positions, unless they can obtain the qualifications within a limited time. In the meantime, a tenure system will be established to protect the judges and secure their jobs. Ideally, under this system, no judge will be dismissed unless s/he is found, in a due process based on the law, guilty of illegal or wrongful doings.⁴⁰

The Chief Justice of China indicated that, since 1999, the SPC had successfully accomplished 35 initiatives to enhance fairness in the judicial process. These initiatives of judicial reforms are set the "Blueprint for Five-Year Reforms of the People's Courts" (1999-2003).⁴¹ These initiatives included trial reforms to effectively implement the principle of open trials, introduction of new case trial management systems to enhance the roles and status of trial judges, changes to the personnel system in courts to improve the quality of judges, strengthen various monitoring mechanisms and systems of supervision to protect judicial integrity and fairness. The results of these reforms have also been taught in training programs for Chinese judges.⁴²

In the same interview, Justice Xiao also called upon the courts to speed up the process of "professionalizing the judges." In China, there are 3,568 courts, 210,000 judges and 100,000 supporting staff and other judicial workers in these courts. To improve the professional quality of these judges, he said, China had, in recent years, introduced the SJE, launched various legal training and ethics education programs, raised the

⁴⁰ "The Theme of the Century of the Chinese Courts – Democracy and Law Times special interview with SPC President Xiao Yang", in *SPC News Release*, March 9, 2002. http://www.court.gov.cn/channel7/xinwen_38.htm.

⁴¹ See Supreme People's Court Research Office (ed.), (2000), *Blueprint for Five-Year Reforms of the People's Courts*. The Supreme People's Court Press.

⁴² Based on observation of judicial training programs in China since 1996, this author has come to the conclusion that "judicial reform" is indeed a key subject for teaching and discussion in all the training programs. In 1996, the author was invited by the Ford Foundation to join a team of experts to conduct an assessment of these programs in Beijing and Wuhan. Since then, the author has continued to monitor the development of various judicial and legal training programs and found virtually every program would address the issues of reforms in law and justice.

educational qualifications of judges and started an open and competitive process to select trial judges. He urged the courts to implement the SPC's "2001-2005 Education and Training Plan for Court Officials throughout the Country," especially through the training of judges in new laws and WTO rules, and, in his words, to produce "expert judges" who are thoroughly trained in legal theories, have demonstrated expertise in relevant academic disciplines of law, experienced in judicial practice, and have "super legal skills" in doing their work.⁴³

According to Justice Xiao, the SPC had also established some new systems to ensure the integrity of the judiciary, including a system for the punishment of judges for violation of law or the code of ethics. The penalized judges will withdraw from trial proceedings. During the year of 2001-2002, 995 court staff members received disciplinary sanctions, 85 individuals were charged criminally.⁴⁴

On July 5-7, the Supreme People's Court held a national conference on personnel development for courts. In his speech, Justice Xiao announced that the SPC would tighten the control in appointing new judges by imposing the professional qualification standards, that all new judges would have to pass unified judicial training before they are appointed, and that all the senior judges in courts had to obtain all the professional qualifications under the revised Judges Law.⁴⁵

Most recently, on July 29, 2002, the Supreme People's Court released its *Opinions on Strengthening the Development of Professionalism of Judges*, which demand enhanced "professional entry standards," enhanced "professional conscious," enhanced "professional ethics," enhanced "professional skills," well-established "professional image", more secured tenure and improved "professional supervision" of judges.⁴⁶ Article 33 of the document announces that the Supreme Court wants to reform the existing judge training system to enhancing the professional capacity of Chinese judges.

Apparently, these reforms will help to improve the professional quality of the Chinese judiciary so as to make the judicial process a more fair and efficient process.

5. Concluding Remarks

China was one of the countries in the world to establish the first education systems in human history. The nation has a history of eight thousand years of civilization. After the turmoil of the Cultural Revolution, education, including the education of judges and other

⁴³ "Strike Hard to Reform for Fairness and Efficiency – An Interview with SPC President Xiao Yang", *Legal Daily*, March 10, 2002, and *SPC News Release*, March 10, 2002. http://www.court.gov.cn/channel7/xinwen_40.htm

⁴⁴ *People's Daily*, February 27, 2002, p.10.

⁴⁵ *Supra note 5*.

⁴⁶ <http://www.chinanews.com.cn/2002-07-29/26/206734.html>

legal professionals, has once again become the fastest growing industry in this ancient country.

In twenty-five years, China has not only achieved the fastest growth of the economy, but also created a most amazing miracle in developing a judicial and legal training system. It has built the world's largest institutional network for the training of judges and other legal professionals. It has developed the world's most diversified training programs for the trained and untrained judges and lawyers. It has trained hundreds of thousands of judges, prosecutors, practicing lawyers and law students.

However, the Chinese legal profession, and especially the judiciary, still has many problems. For example, even under the revised Judges Law, which became effective on January 1, 2002, a person who does not have a law degree and did not graduate from a law school is still legally qualified to become a judge, if s/he graduated from a "university-level non-legal program", somehow "has the professional knowledge of the law" and "has conducted legal work for two years."⁴⁷ This is a clear indication that the overall professional quality of Chinese judges still needs to improve to match up with the professional standards of their western counterparts.

Although human rights are still a subject relatively new in China, the present Chinese legal training programs have covered most of the general topics. With China's entry of the WTO and its preparation to ratify the ICCPR require more in-depth and systematic studies of the relevant international and foreign experience, and the existing training programs will continue to incorporate the relevant international standards. In this development, the international community, including the Office of the High Commissioner for Human Rights, can provide some invaluable assistance by:

- assisting the Chinese judicial and legal institutions to build working contacts with the affiliated or associated research and training institutes of the United Nations (e.g., the United Nations network institutes of criminal justice and crime prevention) their counterparts and relevant institutes in other countries to facilitate the exchange of information and expertise;
- assisting the Chinese judiciary and law schools to send their experts, researchers and professors to receive long-term and short-term training in foreign language and foreign training programs (e.g., programs on international human rights law, judicial training, legal ethics, training of lawyering skills);
- assisting the organization of international conferences, workshops, seminars, study tours and other activities for Chinese and international experts, scholars, judges and lawyers to address current issues that are of mutual interest;

⁴⁷ Under Article 9, section 1 (6) of the Judges Law, a person who has graduated from a non-legal department of a university-level program can become a judge, if he "has the professional knowledge of the law" and "has been conducting legal work for two years. This kind of person is qualified to become a judge of a provincial high court and even the Supreme People's Court.

- assisting the selection, translation and Chinese publication of relevant research publications, training manuals and teaching materials that have been produced by United Nations and institutions in other countries;
- assisting the Chinese institutions to improve their capacity to tailor, use and incorporate international and foreign research and training materials in the relevant law and policy research initiatives as well as the training programs;⁴⁸
- assisting Chinese law schools and research institutes to develop and implement advanced international and comparative research initiatives on the relevant topics (e.g., implementation of international human rights standards in domestic laws, constitutional rights, freedom of the press, anti-corruption, fair trial, rules of evidence, protection of women and children) to support the on-going reforms of the judicial and legal systems in China; and
- assisting the Chinese institutions and trainers to develop and implement improved training programs for the judges, prosecutors, practicing lawyers and ordinary law school students, including training programs that are delivered in a foreign language or with the assistance foreign law professors.

Several international donors, including the Canadian International Development Agency (CIDA), the Ford Foundation, the United Nations Development Program, the European Union, and some western governments, have successfully implemented projects of technical assistance in this field. For example, the Ford Foundation alone provides funds to over 25 legal projects in China per year. CIDA has funded a \$5 million training project for Chinese judges, a series of projects for assisting the reforms of criminal procedural law and criminal justice in China, a legal aid law project, and two projects on International Human Rights Covenants. This year, CIDA is preparing to launch a \$4.5 million project for Chinese prosecutors and a \$5 million project for the development of legal aid in China. These technical assistance projects appear to have produced far more visible results than the other Sino-international discourses in the field.

The results of internationally sponsored law reform and legal training programs in China depend on the political will and long-term commitment of all the stakeholders. They also require good programming, generous financial aid, effective management, and the expertise of the international and Chinese experts. The OHCHR, under Madam Mary Robinson's leadership, has been actively working with China in promoting the rule of the law, human rights and good governance. I hope that the OHCHR will continue this important discourse with its partners in China and make it more productive in the years to come.

⁴⁸ For example, the training materials produced by the OHCHR in recent years, e.g., the draft Training Manual on human rights for judges and lawyers, provide excellent sources of information. However, to use them more effectively in a large country like China, the trainers will have to tailor them in accordance with the country's particular legal and cultural context.

Appendix: Examples of Chinese Law School Teaching Curricula

(1) Constitutional Law Course Curriculum

Chapter 1. General Introduction to Constitutional Law (weeks 1-2)

1. The definitions of Constitutional Law – formation and nature of Constitutional Law
2. Characteristics of Constitutional Law – classification of Constitutional Law relations and norms of Constitutional Law
3. Main types of Constitutional Law – traditional methodology and standards
4. Basic principles of Constitutional Law – concept of basic principles of Constitutional Law and general principles of Chinese Constitutional Law
5. Monitoring and supervision of the implementation of Constitutional Law – needs, content, models, methods and the Chinese systems

Chapter 2. History of Constitutional Law (week 3)

1. Origins and evolution of Constitutional Law – conditions and circumstances of the origins, development of Constitutional Law in main western jurisdictions and general trend
2. Origins and evolution of Constitutional Law in old China – the issues in and basic content of legislative activities in old China, three constitutional documents in revolutionary regions
3. Origins and evolution of Constitutional Law in new China – basic theme of the development, the 1982 Constitutional Law of China and its three-time amendments

Chapter 3. The Nature of the State (weeks 4-5)

1. The fundamental nature of the State – the people’s democratic dictatorship as the system of China
2. Features of the Chinese system – class structure of the present Chinese society, political parties and the system of United Front-Line
3. Economic system – basic concept, the Chinese systems of ownership, distribution and property
4. Socialist spiritual civilization – two kinds of civilizations in China

Chapter 4. Forms of State (weeks 6-7)

1. Forms of political power organization of the State– basic content of China’s political system, the People’s Congresses
2. Forms of structure of the State – concepts and types of structures, the reasons of a centralized government in China
3. National flag, national anthem, capital

Chapter 5. Basic Rights and Duties of Citizens (weeks 8-9)

1. Concepts of citizens, citizenship, human rights, basic rights and duties, and their evolution in history – differences between basic rights and other legal rights, constitutional rights under current Chinese Constitutional Law, basic position and views of China on the protection of human rights
2. Features of constitutional rights of Chinese citizens – concepts and content of various constitutional rights and the protection of rights of foreigners
3. Duties under the Constitutional Law of China – basic concepts and content

Chapter 6. The System of Election (week 11)

1. Concept and historical evolution of election and election systems – political significance of election, general election, and the history of Chinese election systems
2. General principles of the Chinese election system – various principles and their features in the current context
3. Procedures of Chinese elections – organization, division of areas, registration, nomination, procedure of voting by ballots, dismissal of elected representatives

Chapter 7. Central State Organs

1. State organs – concept and nature of state organs, their organization and principles of activities
2. National People’s Congress – nature, powers and working procedures of the NPC and its Standing Committee, various committees, rights and duties of the People’s Representatives
3. The President of the PRC – nature, status and powers
4. The State Council – nature, status, powers, responsibilities, system of leadership, and the status and responsibilities of the various departments
5. The Central Military Committee – origin and responsibilities.
6. The Supreme Judicial Organs – nature, status, organization and responsibilities of the Supreme People’s Court and the Supreme People’s Procuratorate
7. The Chinese People’s Political Consultation Conference – its nature, status, history, tasks and roles

Chapter 8. Local State Organs (weeks 14-15)

1. Local people’s congresses at different levels – nature and responsibilities, the force of laws and local laws
2. Local people’s government – organization, systems of leadership and powers
3. System of Autonomous Governance in Minority Regions – concept, features, autonomous local areas, their organs and powers
4. Governmental organization of Special Administrative Regions – the basic theories on “one country, two systems” and the special administrative regions, relationship between the Central Government and these regions
5. Local people’s courts and people’s procuratorates – responsibilities and working principles of local judicial organs

6. Grass-loom level mass self-governed organizations – nature, features, working principles and tasks.

(2) Criminal Procedural Law

Chapter 1. General Introduction to Criminal Procedural Law (week 1)

1. General introduction
2. Types of criminal procedure in history

Chapter 2. Legislative Bases, Purposes and Tasks of Criminal Procedural Law (week 2)

1. Legislative bases of Criminal Procedural Law
2. Purposes of Criminal Procedural Law
3. Tasks of Criminal Procedural Law

Chapter 3. Basic Principles of Chinese Criminal Procedural Law (week 3)

1. Overview of basic principles of criminal procedure
2. Independent exercise of powers by the public securities and judicial institutions in accordance with the law
3. Division of responsibilities, collaboration, and checks and balances
4. Legal supervision by the people's procuratorates in accordance with the law
5. Due process
6. Presumption of innocence
7. Defense
8. Diversion in prosecution

Chapter 4. Subjects in Criminal Procedure (week 5)

1. Special institutions in criminal procedure
2. Participants to criminal procedure
3. The parties
4. Other participants
 - a. Legal representative
 - b. Litigation representative
 - c. The defense counsel
 - d. The witnesses
 - e. Inspector and interpreter of Offenders

Chapter 5. Jurisdictions (week 6)

1. General discussion
2. Jurisdiction for filing a case
3. Jurisdiction for trials

Chapter 6. Withdrawal (week 7)

1. General discussion

2. Reasons and persons to withdraw
3. Types and procedures of withdrawal

Chapter 7. Defense and Representation (week 8)

1. Defense
 - a. General discussion of the system of defense
 - b. Basic content of criminal defense system in China
2. Representation
 - a. General discussion of criminal representation systems
 - b. Typology of criminal representation systems

Chapter 8. Evidence (week 9)

1. General discussion of the system of evidence
 - a. Concept and characteristics of evidence
 - b. Importance of criminal evidence
2. Typology of evidence
3. Classification of evidence
4. Collection and examination of evidence
5. Proof

Chapter 9. Compulsory Measures (week 10)

1. General discussion of compulsory measures
 - a. Concept and characteristics of compulsory measures
 - b. Application principles of compulsory measures
 - c. Importance of compulsory measures
2. Detention for questioning
3. Bail and House arrest
4. Detention
5. Arrest

Chapter 10. Supplementary Civil Proceedings (week 11)

1. General discussion of supplementary civil proceedings
2. Conditions to launch supplementary civil proceedings
3. Procedure of supplementary civil proceedings

Chapter 11. Duration and Delivery (week 12)

1. Duration
2. Delivery

Chapter 12. Filing A Case (week 13)

1. General discussion of filing a case
2. Sources of case filing materials
3. Procedure to file a case

Chapter 13. Investigation (week 14)

1. General discussion of investigation
 - a. Concept of investigation
 - b. Tasks of investigation
 - c. Principles of investigative work
2. Investigative activities
3. Conclusion of investigation

Chapter 14. Initiation of Public Prosecution (week 15)

1. General discussion
2. Examination of prosecution
3. Initiation of prosecution
4. No prosecution

Chapter 15. A General Discussion of Trials (week 16)

Concept, tasks and importance of trials

1. Trial organization
2. Trial system

Chapter 16. Trial of the First Instance (week 17)

1. First-instance trial procedure for cases of public prosecution
2. First-instance trial procedure for cases of private prosecution
3. Summary procedure
4. Verdict, ruling and decision

Chapter 17. Trial of the Second Instance (week 18)

1. General discussion of trial of the second instance
2. Appeal and petition
3. Handling of appeal and petition
4. The principle of double jeopardy

Chapter 18. Procedure to Review a Death Sentence (week 19)

1. General discussion of the death sentence review procedure
2. Procedure to review and approve a death sentence for immediate execution
3. Procedure to review and approve a death sentence with a two-year suspension

Chapter 19. Procedure of Trial Supervision (week 20)

1. General discussion of trial supervision procedure
2. initiation of a procedure of trial supervision
3. Re-trial in accordance with trial supervision procedure

Chapter 20. Execution (week 21)

1. General discussion of execution
2. Procedure to execute various types of judgments and rules
3. Procedure to change the punishment in execution
4. Prosecution of new or unfound offences and handling of complaints