Anglo-American Law and the Case Method in China

--with a focus on the Post-Mao Era

Nianyi Xu

A Project Sponsored by the Colgate University Institute for Philosophy, Politics, and Economics, Lampert Endowment

Supervisor: Professor Cheryl Long

Tuesday, August 7, 2012
Abbreviations 2

Nations, Regimes and International Organizations 2

Educational Degrees 2

Schools and Institutions in History 2

Schools and Institutions in Contemporary China 2

Introduction 2

Inspirations 2

Outline and Methodology 2

Further Research Plan 2

“Five Schools and Four Departments” 2

“Five Schools and Four Departments” 2

Further Closure and Rearrangement 2

Anglo-American Law in Contemporary China 2

Reincarnation since 1977 2

Shanghai: East China University of Political Science and Law, Fudan University Law School, Koguan Law School of Shanghai Jiaotong University and Zhejiang University Law School 2
Beijing: China University of Political Science and Law, Peking University Law School, and Tsinghua University Law School

Amalgamation and Experiments: Northwestern University of Political Science and Law, Jilin University Law School, Southwestern University of Political Science and Law, Wuhan University Law School, Zhongnan University of Economics and Law, Sun Yat-sen University Law School

Observations and Conclusions

Source of Funding, Curriculum, and Method of Teaching

Status Quo of the Chinese Communist Party in Chinese Law Schools

Enduring Legacies of Soochow University Law School

Bibliography
Abbreviations

Nations, Regimes and International Organizations

PRC People's Republic of China

ROC Republic of China

MEPRC Ministry of Education of the People's Republic of China

MEROC Ministry of Education of the Republic of China

WTO World Trade Organization

UN the United Nations

Educational Degrees

LLB Bachelor of Laws

LLM Master of Laws

JD Juris Doctor

JSD Doctor of Juridical Science

Schools and Institutions in History

CLS The Comparative Law School of China

SULS Soochow University Law School

ECCPL East China College of Political Science and Law

BCPL Beijing College of Political Science and Law
SJU St. John's University, Shanghai

**Schools and Institutions in Contemporary China**

ECUPL East China University of Political Science and Law

FULS Fudan University Law School

KLSSJU Koguan Law School of Shanghai Jiaotong University

ZULS Zhejiang University Law School

CUPL China University of Political Science and Law

SACL School of American and Comparative Law

PULS Peking University Law School

TULS Tsinghua University Law School

NWUPL Northwestern University of Political Science and Law

JULS Jilin University Law School

SUPL Southwestern University of Political Science and Law

WULS Wuhan University Law School

ZNUEL Zhongnan University of Economics and Law

SYULS Sun Yat-sen University Law School
Introduction

Inspirations

In the summer of 2011, I was funded by the Lampert Fellowship of the Institute for Philosophy, Politics, and Economics at Colgate University and completed the paper “Rise and Demise of the Comparative Law School of China.”1 The paper was a retelling of the history of Soochow University Law School, otherwise known as the Comparative Law School of China. Soochow operated in Shanghai from 1915 to 1952 and was unique in its focus on Anglo-American law as a Chinese law school, using the so-called case method that Christopher Langdell started in Harvard Law School in the 1870s. In its heyday, each student could benefit from systemic training in Anglo-American law, Roman law, and Chinese law.2 Most professors obtained degrees from top American and European law schools, and many acquired their initial legal training from Soochow. The school also offered American style co-curricular activities, such as moot courts and mock trials. Soochow’s closure in 1952 marked the termination of “Old Laws”3 and the beginning of “New Laws,” in which Chinese law schools underwent drastic changes. Courses on Anglo-American law withdrew from the curriculum for several decades.4

While the rise of Soochow in the 1920s inspired me to explore the success of its educational philosophy in the Republic of China, the demise of the school in the 1950s inspired me to explore recovery of Anglo-American law education in the People’s Republic of China since the 1970s. In 1971, the PRC took over the seat held by the ROC in the Security Council of the United Nations,

1 Nianyi Xu, "Rise and Demise of The Comparative Law School of China," (2011).
2 Ibid., Section II.
3 Ibid., Section IV.
4 Ibid.
and selected a small number of scholars to relearn basics of international relations and international laws. Yet it was not until the reform and opening-up in the 1980s that law schools in China could openly re-introduce courses on Anglo-American law. The number and variety of the courses remained extremely limited for two decades.©

Around 2001, the year that the PRC joined the World Trade Organization, increasing legal conflicts in international trade and business necessitated education of Chinese lawyers in Anglo-American law, and Chinese law schools began an unprecedented effort, since the establishment of the PRC, to open related courses.

**Outline and Methodology**

The working draft this summer thus aims to summarize the status quo of Anglo-American law teaching in major Chinese law schools in Shanghai and Beijing, namely East China University of Political Science and Law, Fudan University Law School, Koguan Law School of Shanghai Jiaotong University, Zhejiang University Law School, China University of Political Science and Law, Peking University Law School, and Tsinghua University Law School.

Starting from a review of the education of nine schools or departments© in the Maoist China, the draft moves on to recent changes in these nine schools, and achievements of restored schools or departments in Shanghai and East China. It then discusses similarities among traditional and restored schools to introduce Anglo-American law education, focusing on sources of funding, the number and variety of courses, methods of teaching, language requirements for faculty members and students. Information comes from campus visits, participation in lectures and seminars, interviews with undergraduate and graduate students, students from other departments taking elective courses in law schools, alumni and alumnae who have chosen or opted out of the legal

---

© Ibid., V.
© The so-called “Five Schools and Four Departments.”
profession, full-time law school professors, and judges serving as *ad-hoc* lecturers, policy consultants, careers advisors or internship providers.

**Further Research Plan**

With additional visits and interviews in the following year, the full paper would expand to describe law schools in Xi’an, Jilin, Chongqing, Wuhan, Guangzhou and other economic centers of China, including Northwestern University of Political Science and Law (located in Xi’an), Jilin University Law School, Southwestern University of Political Science and Law (located in Chongqing), Wuhan University Law School, Zhongnan University of Economics and Law (located in Wuhan), Sun Yat-sen University Law School (located in Guangzhou). The final paper would further explore the relationship between increasing contacts of Chinese companies with the international market and boom in Anglo-American law courses in Chinese law schools.

The paper aims to answer the following questions:

What are the causes for changing attitudes of Chinese law schools towards Anglo-American law education? Are these changes a didactic arrangement by the higher educational authority or a market-oriented response to the societal need? How do the changes in the curriculum and the pedagogical method of a particular law school correspond to its geographical location in China, sources of funding, and outwardness of its home city’s economy? Do the Chinese reformers of the legal education, faculty members and students believe in any moral or jurisprudential values

---

7 Or, on the other hand, the “non-moral” nature of law, that there are no objective standards of morality upon which we could base laws and that “our test of truth is a reference to either a present or an imagined future majority in favor of our view,” a fundamental idea of Oliver Holmes’ jurisprudence. Soochow University Law School’s first Chinese principal, John Wu, adopted the idea wholeheartedly after years of correspondence with Holmes. Wu’s conversion influenced major legislators in the Republic of China who were eager to “Holmize” the legal system of China, and therefore it is worthwhile to observe the resurrection of the idea in the People’s Republic of China. Oliver Wendell Holmes and Harold Joseph Laski, *Collected legal papers* (New York: Harcourt, 1937). 310.
Anglo-American law? Do they import the casebooks and study the courses merely as techniques to help Chinese firms out of anti-dumping charges and perform IPOs to Nasdaq? What are recent efforts of Chinese jurists to localize juridical philosophy of Anglo-American law and improve the domestic legal environment, particularly in civil and criminal laws? Last but not the least, on what grounds can we compare the recent, seeming prosperity of Anglo-American law education in China with the one in the early twentieth century, when China featured a rather different social condition?

The final stage of the research would combine the two papers of 2011 and 2012, enabling discussions from both historical and contemporary perspectives.

With the help of a number of talented and dedicated Chinese or American jurists, such as John Wu, Zhaolong Yang, Oliver Holmes and Roscoe Pond, Soochow University Law School achieved tremendous educational, political and social success in Shanghai and other large cities in the Republic of China. Soochow's influence, however, failed to penetrate into smaller towns and the vast rural area, and Soochowians failed to fundamentally reform the Chinese legal system and left us with lamentable personal tragedies.

Soochow’s closure was, on the surface, a military and political enforcement, but are there lessons that we can learn from? A universal worrying among Chinese intellectuals nowadays is, as in the 1920s, 30s and 40s, the universal gap between the rural and the urban China: cities like Shanghai boast American style skyscrapers and kaleidoscopic fashion stores, yet a substantial number of rural dwellers have never seen cellphones. While the latest generation of internationally-trained Chinese jurists, in tailored suits from the Savile Row and equipped with iPhones and iPads, are heading back and participating in busy transactions of Central Business Districts of Shanghai, Beijing, and Guangzhou, many worse-off villagers still struggle with daily sustenance. Are we heading on the old road of Soochownians and the Republican Chinese? The final conclusion of the

---

8 Xu, "Rise and Demise of The Comparative Law School of China."
paper strives to elaborate on this more existentialist question.
“Five Schools and Four Departments”

Legal education of the People’s Republic of China initiated from closure and rearrangement of a large number of law schools. Schools with Christian background were closed, such as Soochow University, Yenching University (in Beijing) and St. John’s University (in Shanghai). Privately funded colleges, such as Fudan University, were nationalized or rearranged into governmental ones. State universities were not intact, either. The result was a large number of specialized colleges based on the Soviet mode, most of them focusing on natural sciences and engineering.

The Ministry of Education packed up law schools and departments of the entire nation, along with departments of political science, and divided them into nine faculties. Five of them functioned as independent “colleges of political science and law” and the rest were sent to four universities as “departments of law.” “Five Schools and Four Departments” thus represented the PRC’s legal education until Deng Xiaoping’s reform. The five school are Beijing College of Political Science and Law, Southwestern College of Political Science and Law (in Chongqing), Zhongnan (literally “middle-south”) College of Political Science and Law (in Wuhan), Northwestern College of Political Science and Law (in Xi’an), and East China College of Political Science and Law (in

---

9 Ibid., Section IV.
The four departments located in Peking University, Renmin University, Jilin University, and Wuhan University.\textsuperscript{11}

**Further Closure and Rearrangement**

The most notable change was the almost destruction of legal education in Shanghai, left with only one school. On the other hand, six out of nine faculties were located at or near the capital, Beijing.

More specifically, Beijing College of Political Science and Law became the unparalleled center of legal training, which absorbed departments of law, political science, sociology and philosophy of Peking University, Yenching University, Fu Jen Catholic University, and Tsinghua University. Mao Tse Tung wrote calligraphy of the school name in person.\textsuperscript{12}

Liu Bocheng, a leading commander of the Red Army, founded Southwestern People’s Revolution University. With faculties of law from Chongqing University, Sichuan University, Guizhou University, and Yunnan University (which are the only universities in Southwestern China), the Revolution University developed into Southwestern College of Political Science and Law, the first headmaster being a former commander of the Red Army in Northeastern China. Foundation of Zhongnan College of Political Science and Law attributed to Deng Xiaoping and Chen Yi, both of them also high status commanders of the Red Army.\textsuperscript{13}

East China College of Political Science and Law appeared in June 1952, having amalgamated departments of law, political science, and sociology of St. John’s University, Fudan University and

\textsuperscript{10} Guotong Zhao, Senior counselor for the municipal government of Shanghai and alumnus of Shanghai Jiaotong University. Interview by author. Digital Recording. Shanghai Jiaotong University, Shanghai, May 25th 2011.
\textsuperscript{11} Ibid.
\textsuperscript{12} Lian Zhou, Professor of Renmin University. Interview by author. Conversation. Qichun, Wuhan, July 3rd 2011.
\textsuperscript{13} Nianyi Xu, Wuhan University. Campus visit by author. Wuhan, July 3rd 2011.
Nanking University. There were plans to include faculties of Soochow Law School, yet most Soochow professors were never permitted to teach again.\textsuperscript{14}

Northwestern College of Political Science and Law stems from Northwestern People’s Revolution University. Department of law of Northwestern University, a formerly private institution, migrated to the law school of Northwestern College of Political Science and Law.

Besides geographical unbalance that resources of legal education concentrated in North China, presidents and deans of Chinese law school in the Maoist era mostly came from the Red Army. The only exception was Beijing College of Political Science and Law, where the most influential Soochow graduate in the Maoist era, Pan Handian went to teach.\textsuperscript{15} Qian Duansheng, a Harvard graduate, a successful jurist already before 1949 and one of Mao’s favorite scholars, was appointed the first president. The school was, nevertheless, the first among nine schools and departments to close down, after merely six years of operation in 1958, and hibernated until 1979’s restoration.\textsuperscript{16}

None of the other eight schools and departments thrived too long. Zhongnan College of Political Science and Law was annexed into another new school in 1958 in the so-called “re-re-arrangement of higher education.” Northwestern College of Political Science and Law was “destroyed and smashed” in 1972. East China College of Political Science and Law was annexed in 1958, restored in 1963, and finally closed in 1972.\textsuperscript{17} Departments of law in the four universities, Peking, Renmin, Jilin, and Wuhan survived only nominally and did not admit new students for a


\textsuperscript{15} Xu, "Rise and Demise of The Comparative Law School of China," Section IV.

\textsuperscript{16} Zhou.

\textsuperscript{17} Daisong Chen, Associate Professor of ECUPL, School of Economic Law. Interview by author. Conversation. Shanghai Banner Lawyers, 868 Changshou Road, Shanghai, August 3rd 2012.
decade. By 1977, the entire country, with a population of over seven hundred million, produced only 200 legal-political officers per year.

---

Anglo-American Law in Contemporary China

Reincarnation since 1977

From 1977 to 1979, MEPRC restored all the nine traditional schools and departments. A new round of expansion and annexation followed. By 2007, all the “five schools” obtained the status of “comprehensive universities,” and all the “four departments” upgraded to law schools. Many universities that lost their faculties of law restored legal education.


Shanghai: East China University of Political Science and Law, Fudan University Law School, Koguan Law School of Shanghai Jiaotong University and Zhejiang University Law School

\[19\] Zhao; Chen.
East China College of Political Science and Law was the latest to become a university among the “five schools.” Zhejiang and Fudan restored legal studies major, respectively, in 1980 and 1981. Jiaotong opened a Reference Room for Legal Issues in 1986. The four universities benefitted from their location in East China, the frontier of China’s economic development, and responded swiftly to introduce Anglo-American law courses.

Although ECUPL hosts sixteen “subordinate schools,” resources concentrate on four of them. The “Law School” is the oldest secondary school of the university and is responsible for education of undergraduate students. LLB (Bachelor of Laws) students specialize in either Civil or Criminal Law. Criminal Justice School is virtually a police academy. Economic Law School and International Law School are the oldest of their kinds in China. The two schools offer the majority of Anglo-American law courses in ECUPL.

Founded in 1985, the Economic Law School confers LLM degrees. Besides the aforementioned fourteen compulsory courses assigned by MEPRC, Economic Law School offers a great variety of optionals, such as Contracts, Applications in Contract Law, Torts, Financial Law, Corporate Law, Labor Law, Tax Law, Real Estate Law, Maritime Law, Anti-Competition Law, Securities Law, Environmental Law, Insurance Law, Negotiable Instrument Law and Analysis of Commercial Cases, etc.

---

20 Ibid.
22 Nianyi Xu, Fudan University. Campus visit by author. Fudan University, Shanghai, June 21st 2012.
23 Each “secondary school,” in the definition of the Ministry of Education of PRC, is roughly equivalent to, e.g., Harvard College of Harvard, Woodrow Wilson School of Public and International Affairs of Princeton, etc.
24 Chen.
25 Ibid.
The International Law School cooperates with the Economic Law School and offers the “most challenging undergraduate degree of the university,” the LLB in International Law. ECUPL requires LLB candidates of International Law School to take a considerable number of courses in Anglo-American law. Frequently opened courses include Contracts, Torts, International Trade Law, International Finance Law, International Business Law, International Investment Law, International Anti-Trust Law, World Trade Organization Law and Practice, Maritime Law, History of European and American Legal Systems, International Public Law, International Environment Law, Evidence Law, etc. International Law School also hosts a number of research centers for international law, the World Trade Organization, international shipping law, etc.

International Finance Law School and International Shipping Law School are the youngest secondary colleges of ECUPL. Regarded as the flagship project of the curriculum reform at ECUPL, International Finance Law School recruits faculty members from top Chinese, European and American law schools, such as Yale Law School, Peking University, Fudan University, etc. International Shipping Law School, on the other hand, provides courses on Maritime Law, International Shipping Law, International Aviation Law, International Private Maritime Law, Maritime Arbitration, International Multimodal Transport Law, etc.

The case method inevitably enters classrooms of ECUPL with the introduction of a large number of courses on Anglo-American law. ECUPL professors adopted the case method as early as

26 Ibid.
27 Yingqi Kong and al., Students of ECUPL. Interview by author. Conversation. Costa Coffee, Jinqiao Road, Shanghai, August 6th 2012.
28 Chen.
29 Mian Luo, Student of Peking University. Interview by author. Conversation. Hengshan Road, Shanghai, August 16th 2012; Chen.
30 Kong and al.
1993 in Contracts, Torts and other Anglo-American law courses. Undergraduate students attend auditorium-style lectures, prepare briefs, and respond to Socratic questioning from professors.

Many LLM students have their own books and most undergraduate students use photocopies. Besides quoting from casebooks edited by American scholars, many professors elaborate on local and contemporary cases, from Weiguan International vs. Apple, in which the Shenzhen-based company sued Apple for trademark infringement, to Wanglaoji vs. Jiaduobao, a dispute between the two largest cold tea producers in China over the usage of a trademark. A few professors invite judges of the High People's Court of Shanghai to lecture on recent cases. The judges, in turn, invite students to audit in courtrooms. Seminars are open to LLM students.

Most Anglo-American law courses have become bilingual, taught in both English and Chinese. Professors expect students to familiarize with legal terms in both languages, with the help of Black's Law Dictionary, English-to-Chinese Dictionary of Anglo-American Law, etc. Japanese is the most popular "second foreign language." French, German, Italian and other modern European languages, do not have a large number of enrollment. ECUPL never offered legal Latin as a requirement or regular elective, though occasionally it was available as an independent study course.

Legal education at Fudan University started in 1930. ECUPL annexed the law school of Fudan in 1952. ECUPL professors, in turn, helped with restoration of department of law at Fudan, which later evolved into Fudan University Law School. Compared with ECUPL, Fudan University

---

32 Chen.
33 Xu.
34 Kong and al; Xu.
35 Ibid.
36 Chen.
37 For more details on the dictionary and contributions of Soochow graduates, see Xu, "Rise and Demise of The Comparative Law School of China," Section V.
38 Chen.
39 Ibid.
Law School is smaller, with 1,900 students and twenty-eight full-time professors, but is famed for the Liberal Arts Core Curriculum for law students.\textsuperscript{40}

The Core Curriculum consists of a wide range of subjects. Six compulsory courses introduce students to the "role of law in the human society and development of various legal systems," namely Law and Cross-cultural Communication, Human Rights and Law, History of Constitutional Civilizations, Ideas and Practices of Rule of Law, Crime and Civilization, and Legal Conflicts and Conversations in the Age of Globalization. Optional courses of the Core Curriculum concentrate on topics outside of ministerial requirements, such as Law and Medicine, Civil Rights in a Civil Society, Marriage Law, Labor Law, Interpretations of Legal Events in Post-war Japan, Anti-Crime Policy, etc.\textsuperscript{41}

Fudan professors also use the case method.\textsuperscript{42} Lectures take place in the gigantic auditorium of the law school building that resemble St. Peter's Basilica in the Vatican City.\textsuperscript{43} Fudan provides a smaller number of courses than ECUPL, yet a few stand out for their exceptional requirements in linguistic abilities. Professor Zhang Naigen, director of the Research Center for International Law at Fudan University, selects a limited number of students into his Introduction to International Law.\textsuperscript{44} The course requires students to "learn international law by original legal materials such as international treaties and cases of International Court of Justice" and practice "by course discussion and moot court."\textsuperscript{45} The requirement to complete all readings and discussions in English challenges an undergraduate law student in China, yet most Fudan students taking the course appear to be

\textsuperscript{40} Not to be confused with the required fourteen courses by the Ministry of Education. Fudan students need to fulfill this ministerial requirement as well.
\textsuperscript{41} Xu.
\textsuperscript{42} Shen; Xu.
\textsuperscript{43} Ibid.
\textsuperscript{44} Shen.
\textsuperscript{45} Naigen Zhang, "Syllabus and Assignment of LAWS120002.03 (Introduction to International Law)," (Fudan University Law School, 2010).
comfortable after a few seminars.\textsuperscript{46} The “real headache” for students is that most cases involve non-

English speaking countries and more abundant information is available in modern European languages.\textsuperscript{47} Students that possess reading ability in French and German find great advantage in discussion of cases such as Germany v. Denmark and Netherlands (1969, ICJ, the North Sea Continental Shelf Case) and France v. Norway (ICJ, 1957, Norwegian Loans Case).\textsuperscript{48} All of them find legal terms in Latin very tricky and most students memorize them as random combinations of letters. In the end, everyone understands the concept of \textit{ius cogens}, \textit{erga omnes}, \textit{quid pro quo}, etc., though pronouncing them in all kinds of ways.\textsuperscript{49}

Koguan Law School of Shanghai Jiaotong University distinguishes from ECUPL and Fudan in its source of funding. Leo Koguan, an Indonesian Chinese and a graduate of Columbia Law School, sponsored with thirty million US dollars from his namesake foundation. It is the largest personal donation to Chinese universities in decades.\textsuperscript{50} With the unprecedented help from the external source, Koguan Law School of Shanghai Jiaotong University ensured financial independence and experimented on its so-called “three-plus-three” program to produce first-class legal professionals in China.

ECUPL, Fudan and other law schools offer the so-called “four-plus-two” program, in which students obtain LLB degrees after four years and apply for LLM programs that last two years. Reformers at Jiaotong find the forth year of LLB students “wasted on undergraduate theses and unhelpful internships” and could be spent on deeper learning of Anglo-American law and more

\textsuperscript{46} Yiming Zhang and al., Students of Fudan University and Jiaotong University. Interview by author. Lunch and Conversation. Starbucks, Biyun Road, Shanghai, July 23rd 2012.
\textsuperscript{47} Ibid.
\textsuperscript{48} Ibid.
\textsuperscript{49} Shen.
\textsuperscript{50} Zhang and al.
systemic study on other legal traditions.\textsuperscript{51} Thus in the three-plus-three programme, which started only five years ago and has produced a dozen graduates, each undergraduate law student spends three years on the Core Curriculum, which is almost the combination of the fourteen ministerial courses, requirements for LLB students of Economic and International laws at ECUPL and the Liberal Arts Core Curriculum of Fudan. Jiaotong’s Core Curriculum, therefore, appears to be the most challenging.\textsuperscript{52} It features additional courses on Family Law and Inheritance Law, Legal Logics, Real Right Law, Roman Law, the Federal Rules of Criminal Procedure in the US.\textsuperscript{53}

At the end of the third year, students enter a selection pool. Based on their Grade Point Average and performances in the entrance examination and two rounds of interviews, the selection committee admits fifteen of the undergraduate class to the “Special Class for Juridical Science,” while the rest finish the fourth year and receive LLB degrees. The “Special Class” lasts for another three years, in which students receive further education in Anglo-American, Roman and Chinese laws.

The Special Class provides help and services that are taken for granted in top American law schools but rare in Chinese ones. While a number of Chinese law schools offer Anglo-American law courses related to economic and financial activities, the Special Class of Jiaotong focuses on Civil, Criminal, and Procedural Laws.\textsuperscript{54} Besides a faculty advisor, each student has a one-to-one “external advisor” who may be judge of a District or High People's Court, prosecutor, or partner of an influential law firm.\textsuperscript{55} External advisors meet with advisees on a regular basis throughout the three years and offer academic and career advice. Besides, the career service office of the Special Class helps with judicial clerkships and internships in local branches of American law firms in

\textsuperscript{51} Koguan Law School of Shanghai Jiaotong University, "Requirements for Undergraduate Students of Law," (2012).
\textsuperscript{52} Ibid.
\textsuperscript{53} Ibid.
\textsuperscript{54} Ibid.; Zhang and al.
\textsuperscript{55} Ibid.
China. For students interested in academia, the Special Class has set up exchange programs with top American and European law schools. Last but not the least, the Special Class offers almost full financial aid for admitted students.\footnote{Ibid.; University, "Requirements for Undergraduate Students of Law."} When graduates receive their LLM degrees at the end of the Special Class, they have undergone training by the Socratic method and the case method and participated in moot courts and mock trials.

Zhejiang University traces the history of its legal education back to 1945, when a Soochow graduate, Li Haope, led the law school.\footnote{Xu, "Rise and Demise of The Comparative Law School of China," Section V.} The curriculum is similar to those of ECUPL and Fudan. In 2007, establishment of the Professor Committee put Zhejiang University Law School in the spotlight. The Committee consists of ten professors of different specializations, such as Tze-chien Wang, former Judge of the Supreme Court of the ROC, William Alford, Vice Dean for International Legal Studies at Harvard Law School, and Luo Weidong, Vice President of Zhejiang University. The Professor Committee has the ultimate authority over academic issues in the law school and is in charge of appointment, promotion and dismissal of faculty members.

**Beijing: China University of Political Science and Law, Peking University Law School, and Tsinghua University Law School**

One might expect law schools in Beijing, the political center of the People's Republic of China, to be more conservative.\footnote{i.e., maintaining the traditional, Soviet style curriculum and the textbook method since the 1950s.} In the 1952 Rearrangement, MEPRC indeed provided the capital city with the largest number and best quality of law school professors, the most generous financial support and the privilege to select best students in the College Entrance Examination of China.\footnote{Zhao.} Fu Jen, Yenching, Peking and Tsinghua, the four most prestigious universities in the Republican era of Beijing, handed in their departments of law to Beijing College of Politics and Law and Renmin University.\footnote{Zhou.} Shortly after, Peking University obtained new faculty members from other closed and
rearranged schools. Thus three out of the nine “traditional” law schools, Beijing College of Political Science and Law, Peking University Law School and Renmin University Law School, with a dozen of other elite universities, squeezed into Haidian District of Beijing.

None of the three schools, however, quite produced, as they were supposed to, “politically reliable and academically competent” political-legal officers for the People’s Republic. Peking students led numerous street demonstrations, a tradition since the Republican era. BCPL faculty, on the other hand, was the eternal birth-bed for liberalism and “rightism.” Every president of BCPL, later China University of Political Science and Law, defended the importance of “rule of law” before central authorities of the party and Red Guards in the Cultural Revolution. Professors of BCPL argued repeatedly that no one should be above law, that *nulla poena sine lege*, and that many legal ideas could be and should be universal, though the school ended up being the first to be closed, as mentioned, in the “Five Schools and Four Departments.”

The liberalist tradition of BCPL revived when MEPRC restored the school and soon upgraded it to China University of Political Science and Law. Many faculty members miraculously survived, in terms of their eligibility for teaching law in China, in the turmoils at the end of the 1980s, and went on restoring not only a liberal atmosphere for academic discussions but also the “most important traditions” of Chinese legal education.

---

61 The school that later became China University of Political Science and Law.
62 Compare with the fact that Shanghai, Wuhan and other metropoles had only one each and over twenty provinces in China did not have law schools for decades.
63 Ibid.
64 Ibid.; Zhao; Chen.
65 Zhou.
CUPL started to offer a few courses on Anglo-American law since the early 1990s and has been the most outspoken institution to recognize the importance, for a Chinese legal professional in this age, of an all-rounded education in Anglo-American law. Among Chinese law schools, it also has a unique emphasis on education in Roman law, thus providing students with comprehensive knowledge on Western legal systems and comparative perspectives to reflect on Chinese legal system. The effort culminated in establishment of the School of American and Comparative Law (SACL) in 2002.

The so-called LLM degree of the SACL differs from those in other Chinese schools and highly resembles a JD programe in American law schools. The SACL version requires three years of study in residence, while LLM programs in most Chinese and American law schools last only one year. The first year of LLM students at the SACL consists of four compulsory courses, Torts, Contracts, Property Law and Company Law. Second-and-third-year students choose at least five from over twenty electives.

Optionals at the SACL are the best illustrations of CUPL’s bent on comparative laws. Starting from Theory and Methodology of Comparative Law, a diligent student has the opportunity to explore every major field of Anglo-American and Roman laws and analyze similarities and differences between the two systems. Most popular courses include Comparative Civil Law, Comparative Criminal Law and Constitutional Comparativism. Civil and Criminal Procedures compares practices in American and Chinese courts. Comparative Tax Law examines tax laws in the US, UK and Continental Europe and aims to provide practical advice for reform in tax laws of

---

66 Chen.
67 The School of American and Comparative Law at China University of Political Science and Law, "Introduction to the programe of Master of Laws at the School of American and Comparative Law," (2012).
68 Ibid.
69 Ibid.
Many optionals at the SACL are unique in Chinese law schools, Comparative Intellectual Property Law, Comparative Labor Law, Entertainment Law, to name a few.

Permanent faculty members at the SACL have shining credentials that match the ambitious academic program. Led by Dean Xu Chuanxi, with a PhD in anthropology from Yale and a JD from Harvard, all tenured professors are already nationally-recognized scholars and most obtained degrees from top American or European law schools. Half of them graduated from JD or JSD programs of Yale. Jiang Ping, the most revered professor of Roman law in China and former president of CUPL, volunteers as part-time professor at the SACL. The special political status of CUPL perhaps enables the SACL to invite international jurists regardless of their political attitudes. Jerome Cohen, despite his open help for Chen Guangcheng, the world-famous Chinese political dissident, is still on the list of Honorary Professors of the SACL.

In contrast to CUPL that seldom advertises achievements, Peking University and Tsinghua University always stir tremendous popular reaction by their progress or scandals. “Peking and Tsinghua” represents the highest quality of Chinese education. Their graduates share a “sense of self-importance” and regard those “from the other school” as friendly rivals. In recent years, professors and students of Peking and Tsinghua are fond of comparing their schools to Chinese “Harvard and Yale,” or “Oxford and Cambridge.” Presidents of Peking and Tsinghua even started a rowing competition of eights in 1999 and anticipated it to last “for a hundred years,” modeling after the University Boat Race, though the Chinese version ended sooner than expectation in 2010.

---

70 Ibid.
71 Ibid.
72 Ibid.; Zhou.
73 Law, “Introduction to the programe of Master of Laws at the School of American and Comparative Law.”
74 Luo.
75 Ibid.
Competition between law schools of Peking and Tsinghua started in the 1920s but the real tension occurred in 1952. After a round of kaleidoscopic exchanges, Tsinghua transformed into a specialized engineering school with not a single professor in humanities and law. Peking University, nevertheless, not only retrieved its law school from BCPL with the help of Dong Biwu, a Deputy Prime Minister of China, but also absorbed the entire law school of Tsinghua, except the library that president Jiang Nanxiang (of Tsinghua), a leading engineer, “prophetically rescued.”

Peking University Law School was one of the only two that kept operating in the Cultural Revolution, thus becoming the Chinese law school with the longest history of continuous operation.

Competition between law schools of Peking and Tsinghua started again as soon as the latter restored legal education in 1995. Besides being similar in size and offering almost identical courses in Anglo-American law, PULS and TULS are the only two among Chinese law schools examined in the paper that offer LLM programes in Chinese law. Tsinghua’s program covers courses on Chinese Society and Chinese Law, Chinese Constitutional and Administrative Law, Chinese Civil Law, Chinese Criminal and Criminal Procedural Law, Chinese Corporate and Bankruptcy Law, Chinese Environment Law, Chinese Foreign Trade and Investment Law, Chinese Practice of International Law, Chinese Civil Procedure Chinese Contact Law, Chinese Banking Law, and Chinese Intellectual Property Law. The LLM programe at Peking University Law School consists of almost identical courses, except the additional requirement of Legal Chinese. All professors in

---

76 Ibid.; Yu Liu, Professor of Tsinghua University. Interview by author. Conversation. Qichun, Wuhan, July 3rd 2011.
77 The other was Jilin University Law School. Peking professors and students managed to revoke the decision to close down the school, though Revolutionists still suspended admission of new students from 1966 to 1971.
LLM programs of Peking and Tsinghua have international academic experiences as students, lecturers or visiting scholars in European and American law schools.  

**Amalgamation and Experiments: Northwestern University of Political Science and Law, Jilin University Law School, Southwestern University of Political Science and Law, Wuhan University Law School, Zhongnan University of Economics and Law, Sun Yat-sen University Law School**

This section describes and discusses law schools in other areas of China that offer courses in Anglo-American law. While schools in Shanghai and Beijing benefit from proximity to the economic or the political center, those in Central, West, and South China have less financial support or political advantages. A number of them, however, have achieved considerable progress in education in Anglo-American and Roman laws. More details will follow after visits and interviews in the next year. Interesting topics include academic achievements of the Institute for Comparative Law at SWUPL, research programs on economic law at WULS, and so on. American scholars have already noticed “China’s strange taste” in Leo Strauss and other western philosophers, and Chinese humanists have responded.  

Gan Yang, a leading Chinese philosopher and founder of Boya Institute at Sun Yat-sen University, astonishes Chinese intellectuals with his emphasis on education in the Western classics. Few Americans or Chinese, however, have yet commented on his original training as a jurist and his influence on the reform of Chinese legal system. Exploration on legal education of Sun Yat-sen University may unveil the story.

---


Observations and Conclusions

Source of Funding, Curriculum, and Method of Teaching

Membership of the World Trade Organization since 2001 brought China both opportunities and challenges, but overall the last decade witnessed incredible growth of the country, now the second-largest economic body in the world. Chinese law schools have caught up with the speed and efficiency of the economy, opening courses on Anglo-American law and introducing legal traditions of the West that were taboos in the recent past.

All of the schools examined in the paper are governmental schools that follow guidance of MEPRC. Theoretically, ministerial officers and Office of President of each school make strategic decisions on the curriculum reform, while faculty Committees do not exist or have much weaker power than those in American institutions. Funding mostly comes from MEPRC and the local government.

The number of courses on Anglo-American law offered at each school varies, but most focus on legal knowledge related to economic, finance and business activities, such as Economic Law, Finance Law, International Business Law, etc. Few schools have yet incorporated courses in other fields into the curriculum, such as Anglo-American Civil Law, Criminal Law, and Civil and Criminal Procedures.

Most professors adopt the case method to teach Anglo-American law and choose mainstream casebooks used in top American law schools. Many students purchase their own copy. More expensive ones are available in libraries. Most courses require students to make briefs and lecturers attempt to interact with them by Socratic conversations. Contracts, Torts, Company Law and other popular courses are bilingual, enabling future jurists to communicate with both Chinese and

\[83\] Liu; Zhou; Ma; Zhang.
American colleagues. The Special Class of Koguan Law School of Shanghai Jiaotong University and the School of American and Comparative Law at the CUPL have higher expectations for linguistic ability of LLM candidates, urging them to take English-only courses and participate in mock trials and moot courts. A number of students interested in international law and internships at the International Court of Justice take French, German and other modern European languages. None of the schools examined offer legal Latin regularly, though I often encounter students self-studying the language.

Professors and alumni of all the above schools have been instrumental in modifying domestic laws to cope with rules and practices of the WTO. Jurists with training in Anglo-American law contributed tremendously to drafting of a number of domestic laws, such as the Unfair Competition Act, Law on the Territorial Sea and the Contiguous Zone, Company Law, Anti-Dumping and Anti-Subsidy Regulations, etc.  

**Status of the Chinese Communist Party in Chinese Law Schools**

To concentrate on progress in Anglo-American law education, the paper has not discussed the role of the Chinese Communist Party in Chinese law schools. Although political intervention has weakened since the 1990s, I hope that readers do not walk away with the illusion that the party has withdrawn from daily operations of Chinese universities.

Marxism, Leninism and Maoism are still an essential part of higher education in China, though each law school has different ways to deal with requirements on ideological courses. ECUPL, Fudan and Jiaotong offer Selected Readings in Marxism, Leninism and Maoism. CUPL substitutes with Legal Ideas in Writings of Karl Marx. Other schools seem to use standard textbooks from the Ministry.

---

84 Zhao; Chen.
85 Shen; Kong and al; Zhang and al.
86 Law, "Introduction to the program of Master of Laws at the School of American and Comparative Law."
Committees of the CCP still operate smoothly in Chinese universities and govern nomination and appointment of critical positions. The Youth League of CCP in each school is in charge of extracurricular activities and enjoys generous financial support from the local committee of the CCP. News and announcements of the CCP occupy the most noticeable corners of bulletin boards, newspapers, pamphlets and websites. Last but not the least, a large number of law students are eager to join the party and believe that party membership will help with their career advancement in the Chinese legal environment.

Enduring Legacies of Soochow University Law School

Just as the Chinese economy that has succeeded in tremendous marketization without painstaking political reform, Chinese law schools seem to have created another paradox, restoring Anglo-American law education without changing the structure of management, major sources of funding, and the educational philosophy that still centers on Marxism, at least nominally. Beneath the surface of homogeneity, however, there are always exceptions that remind me of legacies of Soochow University Law School that Chinese jurists are struggling to inherit.

In the forest of governmentally supported schools and departments, Koguan Law School of Jiaotong University, as mentioned, was funded by private donation from Leo Koguan Foundation, not unlike the Methodism Church’s generosity that realized Charle Rankin’s dream to set up Soochow. The faculty Committee of Zhejiang University Law School has maintained its executive independence and followed the original rule of procedures since 2007, reminding me of such tradition of Soochow and other universities in the Republican era. CCP committees in law schools of Jiaotong, Fudan and Tsinghua appear to be smaller and less dominant than those in ECUPL and CUPL. A though-provoking discovery is that they all received donations from Leo Koguan.

---

87 Xu; Xu; ibid.; ibid.
88 Shen; Shijun Shen, Graduate Student of Fudan University. Interview by author. Vis-a-vis conversation. Fudan University, Shanghai, July 9th 2012; Zhang and al; Zhou; Luo.
89 Xu, "Rise and Demise of The Comparative Law School of China," Section I.
90 Ibid., Section II.
The Liberal Arts Core Curriculum of Fudan and the liberal arts component of Jiaotong echoes Soochow’s “liberal arts year,” passing down the educational philosophy to produce legal professionals with a broad knowledge background. LLM programes of Chinese law at Peking and Tsinghua represent continuous contributions of top Chinese law schools to internationalization of Chinese law, Soochow being the pioneer eighty years ago. CUPL’s unique ability to provide systemic training in both Roman and Anglo-American laws, on the other hand, revives Soochow’s ultimate goal to produce all-rounded jurists that master legal traditions of the human world.

In conclusion, Chinese law schools have achieved great progress in development or restoration of education in Anglo-American law. Beyond similarities or differences in sources of funding and course offerings, what these schools really share is a small group of dedicated citizens to guide the reform and defend it in the worst ordeals, from Professor Pan Handian, a Soochow graduate and founder of the School of American and Comparative Law, to He Meihuan, for a long time the only professor in Anglo-American law at Tsinghua University Law School and very likely died of Karoshi. Not all of reformers bear in mind traditions of the pre-Maoist era and perhaps look more to the status quo of American law schools, yet I do see enduring legacies of Soochow looming in success of Anglo-American law education in post-Mao and contemporary China.

---

91 First year law students of Soochow used to take courses only in humanities and social sciences and start their formal legal training from the second year.
92 Ibid., Section V.
93 Ma.
Bibliography

Chen, Daisong. Associate Professor of ECUIPL, School of Economic Law. Interview by author. Conversation. Shanghai Banner Lawyers, 868 Changshou Road, Shanghai, August 3rd 2012.


Kong, Yingqi, and al. Students of ECUIPL. Interview by author. Conversation. Costa Coffee, Jinqiao Road, Shanghai, August 6th 2012.


Luo, Mian. Student of Peking University. Interview by author. Conversation. Hengshan Road, Shanghai, August 16th 2012.


Shen, Shijun. Graduate Student of Fudan University. Interview by author. Vis-a-vis conversation. Fudan University, Shanghai, July 9th 2012.

Shen, Yibing. Alumna of Fudan University. Interview by author. Conversation. Hong Kong Plaza, Huaihai Road, Shanghai, July 7th 2012.

University, Koguan Law School of Shanghai Jiaotong. "Requirements for Undergraduate Students of Law." 2012.


Xu, Nianyi. Fudan University. Campus visit by author. Fudan University, Shanghai, June 21st 2012.


Zhang, Yiming, and al. Students of Fudan University and Jiaotong University. Interview by author. Lunch and Conversation. Starbucks, Biyun Road, Shanghai, July 23rd 2012.

Zhao, Guotong. Senior counselor for the municipal government of Shanghai and alumnus of Shanghai Jiaotong University. Interview by author. Digital Recording. Shanghai Jiaotong University, Shanghai, May 25th 2011.