

INTRODUCTION

*I hear and I forget, I see and I remember, I do and I understand.*¹

As Chinese legal educators turn increasingly to adopt experiential education as an essential part of the curriculum, they have faced a major obstacle in the lack of sufficient teaching materials. Although, as Professor Zhen Zhen has noted, Chinese clinical teachers have "compiled a series of teaching and learning brochures featuring collections of teaching materials and actual cases processed by students,"² there is a great need for more materials. Therefore, as part of a program funded by the United States Agency for International Development and administered by the Pacific McGeorge School of Law, twenty Chinese law faculty collaborated on the creation of case files that can be used in simulation courses to teach law students how to represent clients in arbitrations and administrative and court proceedings. The authors of the case files come from three Chinese law schools that are partners with Pacific McGeorge in training law faculty how to teach using experiential techniques. In addition, two of the authors were sent to the program by the Committee of Chinese Clinical Legal Educators. They divided into five teams to create a variety of case files that can be used in existing courses or in new courses. Three of the case files are based on Chinese cases and two are based on simulations created by the National Institute of Trial Advocacy in the United States. The latter simulations have been substantially modified to reflect Chinese legal and cultural conditions. Finally, a sixth case file, also based on a NITA simulation, was modified by Pacific McGeorge faculty and transformed into a CIETAC arbitration.

The case files cover a range of types of cases. Some present students the opportunity to represent the sorts of clients they might have in a clinic. The subject matter of the cases includes criminal prosecution, sexual harassment, administrative action regarding the opening of a restaurant, a case arising out of a traffic accident,

¹ Attributed to Confucius, Quotation #25848, Laura Moncur, Motivational Quotations, <http://www.quotationspage.com/quote/2548.html>. Thanks to David R. Chavkin for this quotation.

²http://www.law.ucla.edu/docs/zhen_zhen_prosperous_future_of_chinese_clinical_educatio_.pdf. In addition, the China Trial Advocacy Institute, a joint project of Renmin University School of Law and Indiana University School of Law-Indianapolis, has published a China Trial Advocacy Handbook, written in Chinese and English, with accompanying DVD of lectures and trial techniques. Robert Lancaster and Ding Xiangshun, *Addressing the Emergence of Advocacy in the Chinese Criminal Justice System: A Collaboration between a U.S. and a Chinese Law School*, 30 *Fordham Int'l. L.J.* 356, 369 (2007).

intellectual property, and a trans-national business contract. The case files could be used in substantive courses or in skills courses such as negotiation, arbitration, trial advocacy, alternate dispute resolution, or client counseling. They could also be used in clinical education courses. Ideally, though, students would have taken one or more skills courses before taking a clinical course where they represent real clients. The simulation method allows them to learn without any adverse consequences to their clients. They emerge from the skills education course with experience that will enhance their ability to represent real clients. The teaching technique in a simulation course follows several steps: Creation of realistic simulations; Lecture on basic techniques; Demonstration of techniques; Role play by the students --as clients, as lawyers, as mediators, as judges; Self-critique after viewing video of self during the role play; Critique by Professor; Critique by peers; Redoing the exercise after the critiques.

These techniques can be effective in the Chinese law school classroom. Professor Xu Shenjian of China University of Political Science and Law observed that "This kind of teaching method was highly accepted and welcomed by students. They not only learned academically, but also found the shortcomings and merits of their characters and personalities."³ Professor Jay Leach of Pacific McGeorge reached two important conclusions after teaching a trial advocacy course at CUPL: (1)"those who choose law as a field of study are in many respects the same the world over: eager to do battle and comfortable with conflict;" and (2) "teaching skills in a learning-by-doing, or experiential, setting appears to be universally effective. Cultural, stylistic, and linguistic differences, while noticeable, do not appear to affect either the rapidity of the students' learning or their enthusiastic embrace of the experience."⁴

A critical mass of faculty from China University of Political Science and Law, Zhejiang Gongshang University, and South China University of Technology have learned how to effectively provide experiential education using case file simulations, as have some faculty sent by CCCLE. We hope that these faculty will be able in turn to provide training to law professors from other Chinese law schools who wish to employ skills training in their teaching.

Chinese law schools that adopt experiential legal education carry out Hu Jintao's commitment in his Oct. 15, 2007 report to the 17th Party Congress to "comprehensively implement the rule of law as a fundamental principle and speed up the building of a socialist country under the rule of law." His report noted the need to "strengthen the enforcement of the Constitution and laws, ensure that all citizens are equal before the law, and safeguard social equity and justice and the consistency,

³ E-mail message from Xu Shenjian to Brian Landsberg, 12/13/07.

⁴ Ibid.

sanctity and authority of the socialist legal system."⁵ Achievement of these goals requires a well-trained, ethical professional cadre of lawyers and judges. Chinese law schools are training tomorrow's lawyers and judges. As Professor Guo Jie, Vice-president of Northwest University of Political Science and Law, has observed: "The outcome of the legal education will influence and even decide, in some sense, the direction, process and future of the judicial reform and development of the whole country."⁶

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⁵ Hu Jintao, Report to 17th National Congress of the Communist Party of China, Oct. 15, 2007, http://news.xinhuanet.com/english/2007-10/24/content_6938749.htm.

⁶ Guo Jie, Reform of Legal Training and Education Pattern of LLB Programs – A Study and Experience from Northwest University of Political Science and Law, in conference book for Chinese and American Law Deans' Conference, Beijing, April 1, 2005, p.22.