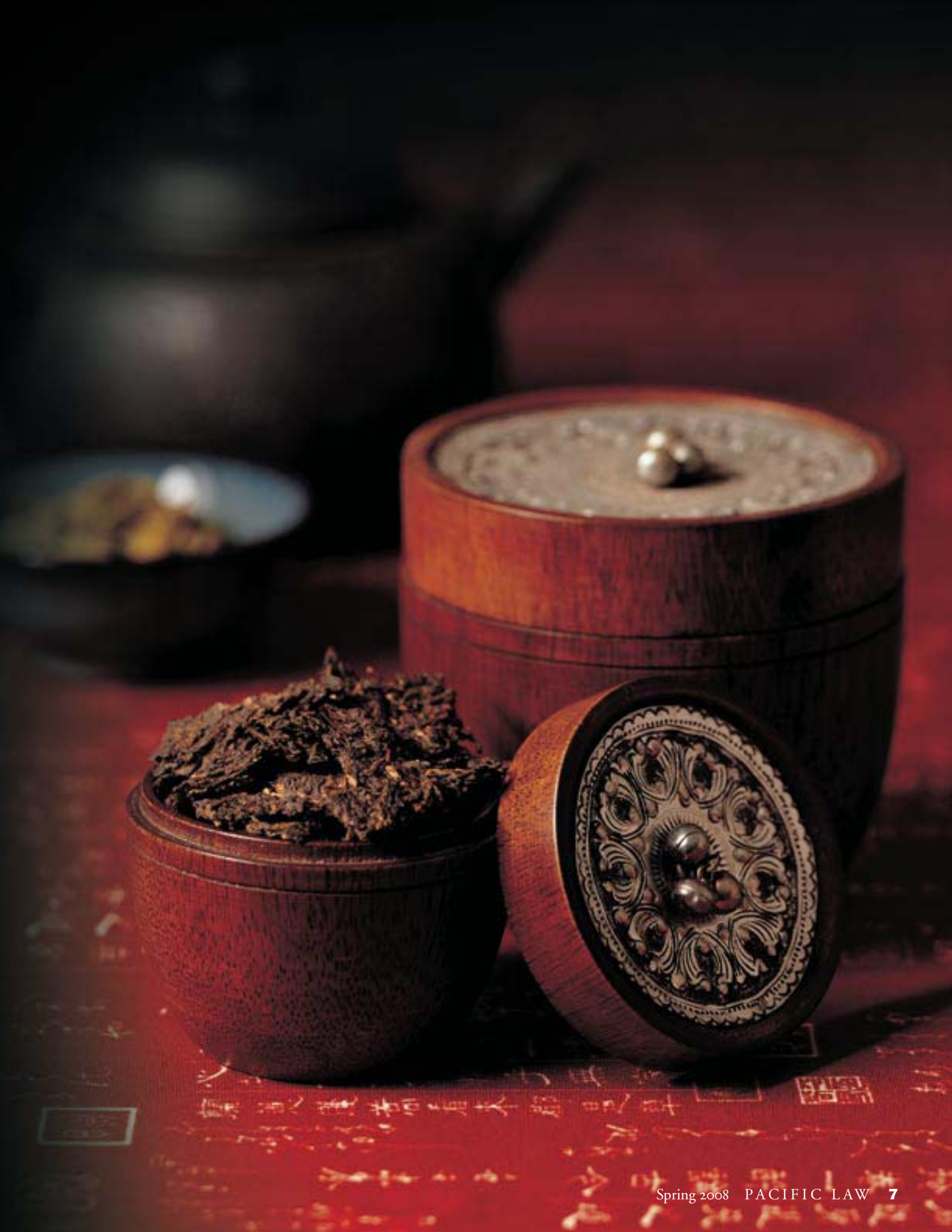


*“Stones from other hills are good for working jade.”*

*Kong Qingjiang, Dean of Zhejiang  
Gongshang University College of Law, quoted  
this time-honored Chinese proverb to begin  
his talk during the two-day conference on  
experiential legal education hosted by Pacific  
McGeorge January 25-26. **By Robert T. Wazeka***

# Developing Experiential Legal Education in China

PACIFIC MCGEORGE HOSTS USAID CONFERENCE



Dean Elizabeth Rindskopf Parker with Beijing University Law School Dean Zhu Suli, LL.M. '87



If Pacific McGeorge and American University can be construed as “other hills,” and if traditional Chinese legal education is like jade, a stone that holds a special place in Chinese culture and history, then the proverb captures the essence of the conference.

Entitled “Experiential Education in China: Curricular Reform, the Role of the Lawyer and the Rule of Law,” the event was part of the fulfillment of a \$1.4 million USAID grant awarded to Pacific McGeorge, which brought American University in as a partner. The conference goal, says Professor Brian Landsberg, who hosted the event, “was to examine the role of experiential education in China and to discuss how American law professors could help Chinese legal educators advance experiential education.”

The process of working jade, like the process of educating lawyers, is extremely slow and requires immense patience and intensive hands-on work. According to Asian art historian Carolyn Wolford Schmidt, jade is “a symbol of human potentiality, the slow working of the stone likened to the arduous process of perfecting the human mind.”

Several Chinese law professors in attendance also quoted Confucius in emphasizing the value of experiential education: “I hear and I forget; I see and I remember; I do and I understand.”

The conference examined various aspects of the role of experiential education, or learning by doing, in Chinese law schools, which are being reformed under the nation’s Ninth Five-Year Plan. The Plan puts particular emphasis on the training of young academic leaders in order to “maintain a stable teaching and administrative contingent with political integrity and academic quality, rational structure and professional competence.”

Three of the conference panels focused on the theory, methods and strategies of experiential education. Another panel looked back at the workshop held in China last summer on the theme of “Training Clinical Teachers in China.” Remaining panels addressed the role that experiential education should play in Chinese legal education and what the content of advocacy and clinical education courses should be.

“I was impressed with the frankness of our interchanges and the constructive suggestions from the participants, including members of the USAID program Board of Advisors,” says Landsberg. “It helped us understand that we have more work to do, but that our work is resulting in important changes in Chinese legal education that will ultimately enable the next generation of lawyers and judges to advance the rule of law in China.”

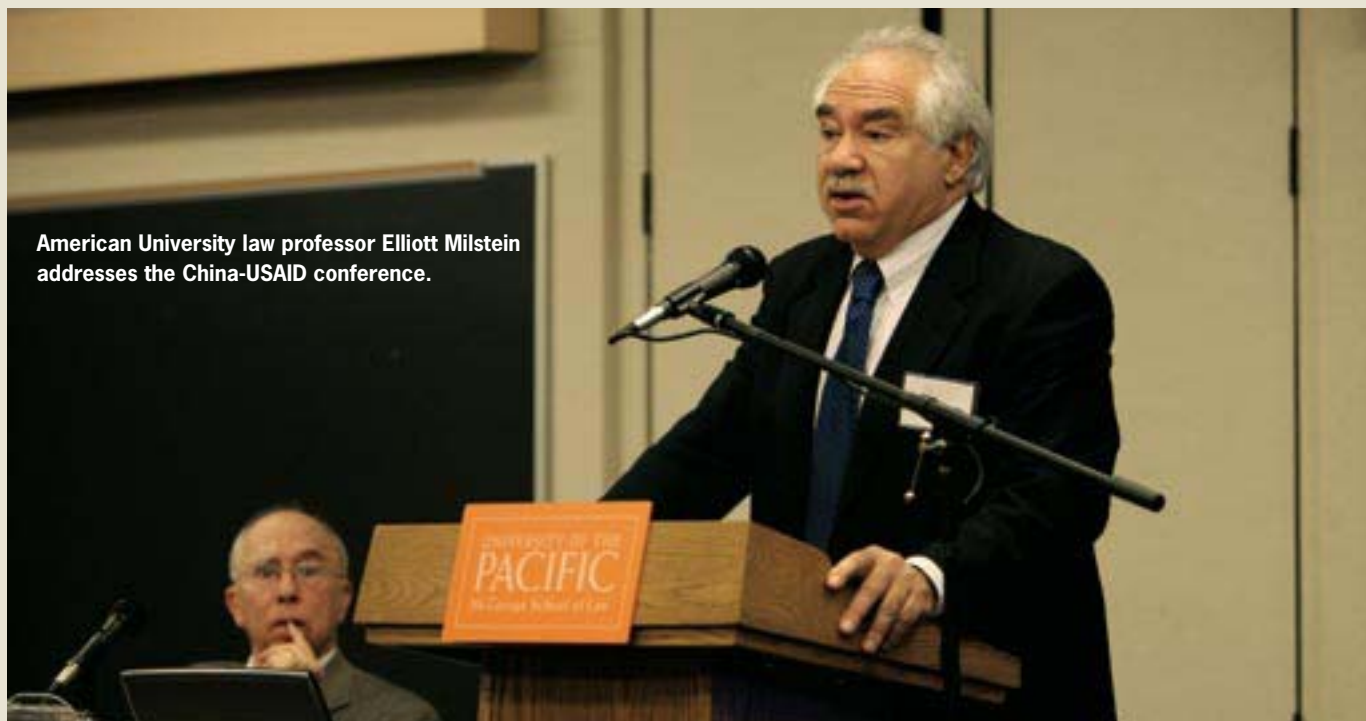
Faculty from Pacific McGeorge and from American University were joined at the conference by law faculty from three top law schools in China—the China University of Political Science and Law in Beijing (CUPL), Zhejiang Gongshang University in Hangzhou (ZGU), and the South China University of Technology Law School in Guangzhou (SCUT). From Pacific McGeorge, Clemence George served as program manager, Ly Lee acted as her assistant and three work-study students—John Doyle, Megan Herberger and Ben Cadranel—provided other assistance.

A second and final conference will be held in Beijing in 2009 as part of the fulfillment of the twenty-eight month grant. The Beijing conference will be hosted by CUPL and the Chinese Ministry of Education.

A key element of effective experiential learning is clinical legal practice. In a paper presented at the conference, American University Professor Elliott S. Milstein wrote that the purpose of clinical practice is “to integrate skills, legal knowledge and ethical decision-making with a professional commitment to justice.”

“One of the pleasures of [the USAID] project,” Milstein said, “is that I have a weekly seminar with three Chinese professors, one from each of the partner schools—Prof. Li Chao from CUPL, Prof. Teng Hongting from SCUT, and Prof. Ma Qilin from ZGU (and in the first semester we were joined by our visiting professor from ZGU, Yu Yanning). I teach them what I know about clinical legal education and they teach me about China. We explore together the transferability of American lawyering theory and pedagogical methods to the Chinese context.” I recently put the question to them: “What do you see as the connection between clinical education and the Rule of Law in China?”

Defining the rule of law, Milstein said, is the paramount question in Chinese legal circles at the present time. The professors with whom he’s working consider clinical education to be the means by which >



American University law professor Elliott Milstein addresses the China-USAID conference.

the values of Chinese lawyers will be shaped, and through which the rule of law will be experientially defined and then implemented within the country.

In his keynote address on the opening day of the conference, Dean Zhu Suli of the Beijing University School of Law painted a realistic, yet hopeful picture of Chinese legal education and what can be expected from it in the near future.

Most legal education in China, Dean Zhu said, takes place on the undergraduate level. “This means law students, when they are enrolled, are too young to be fit for professional skill training. The students are more used to the spoon-feeding style of education they receive in high school. This leads to a rigid way of thinking, mainly conceptual, propositional and theoretic, simply applying general theories and principles to particular circumstances.... Therefore, it is very difficult for them to adjust to the high degree of uncertainties in the legal profession and the varieties of human characters when they enter universities. Moreover, Chinese students are generally overprotected by their families before they go to college ... [and] parents are always trying their best to protect their children from any contact with the real society for fear that their child may be led astray.”

Although the origins of Chinese legal education date back to the later years of the Qing Dynasty (1644-1912), a more realistic starting point is the resumption of national entrance examinations for college and universities in 1977-78. For more than twenty years following 1957 there was no effective legal profession in the country, only judges and procurators. In 1995, China instituted the Juris Master program, modeled on the American JD degree. Taking advantage of Ford Foundation funding, some schools, notably Beijing and Tsinghua Universities, began offering clinical legal education based on the American model in 2000.

Even with these constraints, China seems to be far ahead of many other countries in clinical legal education, including some that started earlier, according to Pacific McGeorge Professor Julie Davis. Quoting China scholar William P. Alford in her paper, “Methods of Expedient Education: Context, Transferability and Resources,” Davies said that “the efforts of the People’s Republic of China since the end of the Cultural Revolution ... [are] the most concerted effort in legal history to construct a legal system.”



**Chinese legal educators are eager to modernize the skills training curriculum in their law schools.**

In his paper, “International Experience and Chinese Response,” Dean Kong (Qingjiang) of Zhejiang Gongshang University noted that German and Japanese models of experiential legal education, as well as American ones, have influenced Chinese law schools. Going forward, he identified four key issues that need to be addressed in the process of integrating practical legal education into the law curriculum: (1) emphasizing more strongly the value of practical legal education; (2) creating a “more purposeful, more focused and more integrated curriculum” as practical legal education is introduced into the system; (3) promoting interaction between law students and legal practitioners; and (4) expanding the capacity for practical legal education, which can often be quite expensive.

In her paper reporting on the summer workshop held in China between July 16 and August 3, 2007, American University Professor Susan Bennett provided some of the most useful, surprising and practical examples of what can be anticipated from Chinese-American collaboration in experiential legal education. The paper, entitled “Reflections on Three Weeks: the ‘China Rule of Law Project: Training Clinical Teachers in China’” noted that two sessions per day were held five days a week, over a three-week period. Nineteen teachers from five Chinese law schools, including five women, participated in the event along with faculty and staff from Pacific McGeorge and American University.

The team of interpreters assembled by the Chinese at first wasn’t prepared to handle the dynamic and fast-moving role-playing situations involved in advocacy skills education. They left the initial session, Bennett said, “in polite, troubled contemplation.” By the end of the three weeks, however, the interpreters “felt the exhilaration of improvisation.” Over time, they

“adjusted their methods to each other”; they learned “by doing, commenting and assessing.” Their evolution was “the most successful collaboration we experienced through the three weeks.”

The American participants weren't prepared for the degree to which the Chinese professors viewed law as a means to achieve social justice. Professor Cai Yanmin of Sun Yatsen University School of Law, speaking for many, made this abundantly clear: “China's legal educators should dedicate themselves to correcting the injustices resulting from China's epochal social changes—its widening divisions between rich and poor, its environmental degradation, its burgeoning bureaucratic corruption, and its workshop exploitation of legions of migrant workers.... Law professors should strive to aid the disadvantaged, to promote the public interest, to maintain self-discipline, and to further social justice.”

In remarks to the panel on strategies for increasing the availability of skills education in China, Landsberg said, “Chinese legal educators have the opportunity to learn from both the successes and the mistakes in other countries and to adapt experiential education to the Chinese system. Change may come incrementally, but we must be aware that a watered-down version of experiential education would ultimately be counter-productive. American law school curricular reform often consists of two steps forward and one step back. I would urge that at each step it is crucial that Chinese law schools do it right and keep moving forward.”

If the January conference showed anything, it showed a willingness on the part all participants to keep moving forward.

## Zhu Challenges Chinese Law Students To Bring Legal Services to Rural China

### Pacific McGeorge Graduate is Dean of One of His Country's Best Law Schools

Sometimes called a contrarian or intellectual renegade, Dean Zhu Suli of China's top-rated Peking University Law School likes to provoke, often taking positions that question accepted legal notions or that challenge his students.

“Law graduates [in China] all want to work in big cities such as Beijing and Shanghai,” says Zhu, who earned an LL.M. from Pacific McGeorge in 1987. Law graduates, he says, should be encouraged to go to poverty-stricken areas, especially in western China, to engage in legal work there. He points to a county-level court in Shaanxi Province that does not have even one university graduate who majored in law. The Tibet Autonomous Region needs about 2,000 judges, according to Zhu, and similar numbers are needed in other western provinces and autonomous regions.

Zhu reiterated this point in his keynote address at the conference on experiential legal education in China hosted by Pacific McGeorge January 25-26: “We should remember that China is a big country with imbalance in political, economic and social development, and that the rural population still accounts for the vast majority of the Chinese population. So, for decades in the future, there will be an unmet demand for qualified legal professionals.”

According to a study by Beijing University and the All-China Youth Federation, sixty-two percent of Chinese graduates in 2007 with bachelor's degrees in law failed to find jobs. One example is twenty-four-year old Zhou Long, quoted in the People's Daily Online, who says, “When I was studying law in college, I never imagined I would be selling pork after my graduation.” Zhou now works at a supermarket in Chengdu. According to the Ministry of Education, China now >



Cameras and recorders of all sizes were commonplace at the conference.



has 200,000 students studying for bachelor's degrees in law at more than 600 universities, and 66,000 other students working towards post-bachelor law degrees.

Nevertheless, Zhu, who also holds a Ph.D., doesn't see the point of students getting a bachelor's degree in another subject, then trying for a postgraduate degree in law for the sake of changing to a more lucrative field of study or a better university. "The [initial] four-year education is wasted," he told the *People's Daily Online*, which is why Peking University encourages law applicants to relate their undergraduate degrees to their postgraduate education. "For those who learned accounting as undergraduates, we encourage them to study related areas of law such as tax law in their postgraduate studies," Zhu says.

In his monograph, *Sending Law to the Countryside*, Zhu maintains that one of the foremost problems China faces is the absence of law and legal services in the rural provinces. Sixty percent of its rural population is largely without law or affordable legal services and dedicated adjudicators. Zhu takes a pragmatic view of the law that emphasizes "solving people's problems," calling for China's legal education to be less theoretical and more practical.

Yet for all his emphasis on the pragmatic, Zhu is also widely known for his outstanding scholarship, as Duke Law Professor Jonathan Ocko emphasized that when introducing Zhu at a 2006 lecture: "Zhu Suli's scholarly writings are substantial and wide-ranging, contributing to the literature on rule of law, law and public policy, legal sociology, law and society, and legal education," Ocko said. "Though largely in Chinese, they are indirectly accessible in English through an analytical summary of his work by Hong Kong University law professor Albert Chen." (Albert H.Y. Chen, "Socio-legal Thought and Legal Modernization in Contemporary China: A Case Study of the Jurisprudence of Zhu Suli," in *Law, Legal Culture and Politics in the Twenty-First Century*, 227-49 (Gunether Doeker-Mach & Klaus A. Ziegert, eds., 2004).

At Beijing University, Zhu has capitalized upon his position as dean to improve the quality and the relevance of its legal education. Zhu says that young tutors were recently added in postgraduate studies to bring in the most up-to-date legal knowledge. Also the university has started a postgraduate program for foreign students to learn Chinese law in English; and that the master's program has added more legal specialties, including financial law, intellectual property law, international business law and criminal law.