

Preface

Legal educators are beginning to recognize that the study and teaching of lawyering skills is an integral part of legal education. Dr. Teng Hongqing and Dr. Liu Changxing are among the legal scholars who are acting on their understanding of the importance of experiential legal education. Their book covers many of the essential elements of professional skills education, including clinical legal education, client interviewing, the attorney-client relationship, negotiation and mediation, trial techniques, evidence rules, and attorney ethics. The value of the book is enhanced by its use of simulations to teach many of the topics covered.

I see this book as continuing in the line of the pioneers of clinical legal education in China. Only ten years ago the Committee of Chinese Clinical Legal Educators [CCCLE] was formed, representing a small number of Chinese law schools. Today, the Committee has over 120 law school members. When my school, the Pacific McGeorge School of Law, joined with American University's Washington College of Law in 2006 to begin a partnership with three Chinese law schools interested in expanding their experiential legal education programs, we found that our Chinese partners wanted training for faculty members in both clinical education and other practical lawyering skills courses. This partnership has led to the development of a cadre of Chinese law professors who can now act as trainers of other Chinese law teachers and have done so for both the CCCLE and for our rule of law program funded by the United States Agency for International Development. The next step is the creation of course materials.

This book can advance integrated legal education. Each method of legal education should be treated as part of an integrated whole in which the various methods reinforce one another and introduce the elements of knowledge, analysis, professional skills and professional identity. The objective of legal education should be to achieve far transfer of these elements of lawyering. Professors David A. Binder and Paul Bergman explain that "Far transfer... involves situational adaptations and problem solving. Far transfer situations require the ability to adapt general principles to the unique needs of specific problems."^①

The traditional doctrinal courses provide the students with foundational knowledge and theory. They provide the context for the lawyering skills courses. However, the traditional courses do not transmit deep transfer of what it means to be a lawyer.

Lawyering skills simulation courses teach how to use that knowledge and theory to advance the interest of the client, in transactional or litigation settings. They reinforce the doctrinal knowledge and place it into a practical context. They also teach basic legal skills and prepare students to represent real clients. Simulations --- learning by doing --- can also be used in the traditional doctrinal courses to emphasize important points. However, simulations cannot replace the traditional doctrinal courses, because analysis, critique and development of legal doctrine must initially emerge from study of legal texts.

The clinical courses bring a variety of problem solving challenges to the student, calling on

^① David A. Binder and Paul Bergman, *Taking Lawyering Skills Training Seriously*, 10 Clinical L.Rev. 301 (2003).

the student to employ both doctrinal and skills learning and to use analogies from the doctrinal and skills courses to help solve the problems. The client is no longer abstract, but is real, and the student is required to exercise mature judgment in deciding how to represent the client. This representation reinforces the knowledge and theory learned in the traditional doctrinal course and helps the student appreciate the significance of learning legal doctrine. However, clinical courses cannot provide broad knowledge of doctrine, because the substance of what is taught depends on the cases that come to the clinic. And, as Binder and Bergman have pointed out, while clinical courses do include simulations, they cannot provide the systematic practice in problem solving that simulation courses provide.

As the Carnegie Foundation for Higher Education recently observed in its study, *Educating Lawyers*: “The two kinds of legal knowledge---the theoretical and the practical---are complementary. Each must have a respected place in legal education.” In order for experiential legal education to take a respected place in the legal academy, we must develop a body of scholarship about what it means to be a lawyer, how the legal system actually works, and how we can best educate law students. An essential part of that scholarship is the creation of curricular materials. Dr. Teng and Dr. Liu have performed a great service by writing this book, which will be helpful to teachers of clinical and other lawyering skills courses. Their work, made possible in part by funding from the United States Agency for International Development, will contribute to the creation of skilled legal professionals who will work to uphold the rule of law.

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