

OPINION

LEARNING THROUGH TEACHING: REFLECTIONS ON THE DEVELOPMENT OF SOCIAL JUSTICE IN CHINA THROUGH PUBLIC INTEREST LEGAL WORK

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In November and December 2015, I had a fascinating and challenging opportunity to teach American Constitutional Law and Torts to fifty accomplished, curious, and insightful students in an LLM program offered by Temple University Law School on American law at Tsinghua Law School. If these students are representative of the new generations entering the legal profession in China, the Chinese people will be well served and will have much to admire.

The legal profession, like so many institutions in China, is in a transformational stage. There has been much discussion in China of “the rule of law,” but exactly what that means and how it will operate in China remains to be seen. I have no crystal ball to predict the future, but I have some ideas about how that future might become a Chinese success story.

As the economy grows, and as a strong middle class begins to emerge, China inevitably will face questions reminiscent of those Americans asked after our economic success after World War II. With a degree of affluence comes a next phase – demands from the historically marginalized to be included in the success story; a renewed definition of social justice; a search for meaning beyond basic economic stability.

China is at the cusp of this second phase. I saw, in different ways and in different degrees, a search for meaning among my students. So many wanted to be sure they were in a profession that would provide not only a good standard of living but also would enable them to help people with their problems, both large and small. My students – and so many others I met – are asking the basic question of just what a system based on the rule of law should mean in a just society.

That search for meaning is playing out across Chinese society in so many ways, and that is a natural consequence of a society that is increasing the standard of living for its citizens and is trying to demonstrate to itself and the world that it has much to offer toward human progress in so many areas. People want to contribute, they want to help, and they want to make things better. Lawyers are no different.

In economically powerful countries, society looks to its legal system to work out rules of conduct and achieve social justice. If the legal system can deliver on that promise, social stability – a “buy in” into the system – is strengthened. The seeds of such a legal system are present in Beijing. They have been planted by

increasingly wise people among the leadership. Whether they grow and flourish, only time will tell.

The Beijing legal community has, right within its own city, a number of institutions that should serve as models for what are some of the best things that lawyers can do to advance justice and fairness. One that I visited, twice, is the ZhiCheng Public Interest Law Group. I want to provide my perspectives on this very special place, and offer, respectfully, an outsider's view – but an outsider with some experience – on both what I saw and on the potential of this organization.

I came to Beijing with over forty years of considerable experience in the legal community in the United States. I served as the Chancellor of the Philadelphia Bar Association and as the leader of transformational changes in our profession. I was instrumental in the growth and expansion of a number of public interest legal organizations handling an array of social problems and in the emergence of generations of lawyers finding purpose and meaning in dedicating their time and services to those causes. I have a clear understanding of how public interest organizations can flourish and how that success leads to a stronger and more stable society that believes in – and therefor is based on – the rule of law.

ZhiCheng Public Interest Law Group is not well enough known in the Chinese legal profession. But it should be. It is an organization of dedicated lawyers and staff who work tirelessly for the basic rights of marginalized groups in Beijing such as migrant workers, abused children, and seniors. ZhiCheng also seeks to duplicate itself and its successes in other cities in China.

Although we have many great public interest legal organizations in the United States, every one of them could benefit from spending time with lawyers and staff who make comparatively little money but who operate under a set of ethical principles second to none. The ethical precepts literally hanging on posters on the walls demand complete fidelity to clients, promise that no one on staff will have any other employment to avoid conflicts of interest, assure that all that can be done will be done to help people with their problems, no matter how large or small. These are codes of conduct that any public interest group anywhere would gladly hang on its own walls. The training, record keeping, time commitments, creativity, and determination to succeed among the lawyers and staff similarly is as inspirational as I have seen anywhere.

I left my visits with the ZhiCheng Public Interest Law Group wondering why this organization is not replicated many times over in Beijing and throughout China. I wonder also why comparatively few Chinese or ex pat American lawyers knew anything about ZhiCheng. There is no question in my mind that if there were more ZhiChengs and more awareness of them, Chinese society would be stronger and Western attitudes about the Chinese legal system would shift considerably.

In the spirit of respect and admiration for what I saw, I offer some strategies and ideas for strengthening and expansion of this type of public interest service. Most of what I suggest is commonplace in the United States, where the lawyers are expected – in legal codes of conduct – to perform pro bono legal services and support legal service organizations.

First, Chinese Bar Associations and informal legal groups should encourage all lawyers and law firms to provide support for ZhiCheng and similar institutions. Why not add to the Chinese ethical codes of conduct a requirement of support for public interest legal service organizations or an expectation of performing pro bono services? That support could be a percentage of a law firm's profits or a strongly suggested charitable contribution to a legal services fund or a designated number of pro bono volunteer hours per year per lawyer.

Second, the government should consider encouraging the media to publish more stories about the great results of organizations like ZhiCheng. When migrant workers are successful in achieving back pay, or children are saved from abuse, those stories should be told. They inspire confidence in the legal system and the rule of law.

Third, the lawyers who work so hard, for so little, should be honored and recognized for their work. In the west, we hear so many stories of lawyers in China who are criticized or detained for working on unpopular causes. Those stories are confusing to people who see China as a society that also promotes the well-being and economic strength of its citizenry. Putting aside the debate about the accuracy of those stories for the moment, it seems self-evident that telling the stories of the results and labors of lawyers at organizations such as ZhiCheng would create a broader picture and better perspective on how China is experiencing social change and progress through legal means.

Fourth, local officials should be encouraged to provide support, both economic and material, for public interest law firms who are trying to make life better for those served. In other words, a stamp of approval from government, and increased public funding, could go a long way in making activities like these more mainstream. Words of acknowledgment and praise from governmental leaders encourage commitment and adherence to the rule of law.

Fifth, law schools should set up legal aid clinics, modeled after the work of ZhiCheng, and teach their students as part of any course covering professional responsibility, the importance of pro bono legal services. The schools might consider setting up externships where students receive meaningful credit for performing public interest legal services in the "real world" during their legal education. Law schools might set up conferences, and special events to highlight the work of ZhiCheng lawyers and those like them. Learning the importance of pro bono services as a student often results in a lifelong commitment to social justice in all of its forms.

These modest initiatives clearly will benefit China's image, and enhance social stability when people realize that there are legal organizations and systems to combat inequities. But, there is a much more profound benefit from supporting and expanding public interest legal services. This brings us back to the search for meaning stirring in Chinese society.

There is nothing that a lawyer can experience that is more elevating and affirming than the gratitude from clients for a job well done. That life affirmation is multiplied ten-fold when the gratitude comes from people who never believed that anyone was going to be in their corner or would care about their plight. If lawyers are to be leaders in a society, and they are in China, then they should know what leadership could really mean. They should know that all of their hard work, hours of study, days and days of fretting over legal problems is all worthwhile because those talents ultimately help people in need, people who just need to be protected and helped often in some small or modest way. From that sense of purpose comes better lawyers, better community leaders, and fundamentally, better people. And, that is in the service of China's remarkable emergence as a world power and determination to be a society based on the rule of law.

It may be that what we have experienced in the United States as lawyers who dedicate a great portion of our time and money to the public good, is just a few generations earlier than what Chinese lawyers will experience. As I said, I do not know and I have no crystal ball. But, I had the great privilege of seeing the potential in a society exploring the contours and meaning of social justice in a modern, economically powerful society. ZhiCheng Public Interest Law Group – and organizations just like it – should be the poster children and some of the role models for China's fascinating exploration of a modern society based on the rule – and role – of law.

