

## INTERNATIONAL LAW INSTITUTE, PEKING UNIVERSITY

Following the downfall of the "Gang of Four" in 1976, the Chinese Communist Party decided to shift the focus of its work to China's economic modernization programs. This fundamental change of the Party's line ushered in a new era in the history of the People's Republic. Among other things, priority was placed on the reconstruction of China's legal system. As a result, legal education in China began to be revitalized.

In 1978, Mr. Deng Xiaoping, China's paramount leader, called upon strengthening international law studies and research in China. In response to Mr. Deng's call, Professor Wang Tieya and Professor Wei Min jointly published an article in China's official newspaper, the People's Daily, making appeal for devoting much attention to teaching and research of international law in China. Since then, Professor Wang has thrown all his life into the development of the field of international law in China.

1979 stands out as a landmark year. Under Professor Wang's direction and leadership, a four-year under-graduate program in international law--the first of its kind in the history of China--began to be offered by the Faculty of Law at Peking University. The following year saw another major progress. With Professor Wang's strenuous support, the Chinese Society of International Law--another first of its kind in China's history--was founded, of which Professor Wang was elected Vice President. In 1980, as the chief editor, Professor Wang undertook to supervise the compilation of China's first national textbook of international law, which was published in 1981. The next year, the first volume of the Chinese Yearbook of International Law came off press, of which Professor Wang served as a chief co-editor.

Although the Chinese international legal community has undergone a rebirth since 1979, tremendous problems as well as difficulties still remain, e.g. lack of qualified Chinese international lawyers and teachers, serious shortage of update books and materials, wide gaps in teaching and research of many important topics of the discipline, etc.. This state of affairs has hampered China not only from adequately meeting its increasing need for international legal profession in conducting its international relations but also from contributing to the development of international law as much as it should. In order to put an end to this situation, Professor Wang took an initiative to establish a separate research institute in Peking University in the early 1980's. According to Professor Wang's idea, this institute should take the first step to become the center for international legal studies throughout China. On this basis, efforts should be made to develop the institute into one major institution for the study of international law in the third world countries.

For this purpose, this institute should be committed to undertake research projects in all major fields of international law, offer courses on various specific topics of international law and sponsor training programs for graduate students. In addition to these undertakings, it should also be able to provide professional service to the Chinese international legal community including consultation on various practical as well as academic issues and library services.

This idea met with enthusiastic support of the then PRC Ministry of Education. In 1983, China's first university-based research institute in the field of international law, the International Law Institute of Peking University was founded. Professor Wang became its founding director.

The Institute is committed to conduct research projects in the following fields:

**1. The relations between China and international law**

A survey of historical development from modern times to the present, with particular emphasis on the elaboration of the practice of the People's Republic of China relating to international law.

**2. International organizations**

An analysis of the role of international organizations in maintaining and developing the international legal order with the United Nations as the focus.

**3. The impact of science and technology on international law**

A study of the development of the law of the sea, air and space laws, international environmental law as well as the legal regimes for the Antarctic.

**4. International human rights law**

A study of international protection of human rights, including different approaches to international human rights law, relationship between domestic jurisdiction and international protection of human rights, effect of human rights treaties in domestic legal system, etc..

**5. Legal aspects of international economic relations**

A study of issues concerning the New International Economic Order, international development, and the nature of international economic organizations.

The Institute will identify other relevant subjects as its research topics in response to the development of international law at large.

The results of the research are primarily manifested in manner of the publication of monographs and articles carried in the Chinese Yearbook of International Law and other academic journals. As of 1988, the research staff members of the Institute completed the following publications: two monographs by Professor Zhao Lihai entitled On the Revision of the U.N. Charter and The New Development of the Law of Sea; articles by Professor Wang Tieya, "The U.N. and International Law" (CYIL 1986) and "Concept of Common Heritage of Mankind" (CYIL 1984); articles by Professor Shao Jin, "Legal Problems Concerning Military Use of Exclusive Economic Zones and Continental Shelves" (CYIL 1985), "Rules of General International Law concerning the Innocent Passage of Foreign Warships through the Territorial Sea" (CYIL 1989); articles by Mrs. Wei Qun, "On the Choice of Law Clause and other Legal Problems in State Contracts" (CYIL 1986) and article by Mr. Li Zhaojie, "Issues Concerning Sovereignty over Antarctica" (CYIL 1987), "Inter-temporal Law in International Law" (CYIL 1989); etc..

So far, the research project on the Practice of the People's Republic of China relating to International Law has become a state project for the 7th 5-year National Social Science Research Program under Professor Wang Tieya with Professor Ma Jun of China Foreign Affairs College as a co-participant, and Miss Tian Ruxuan, associate research fellow of the Institute, as a document and material assistant. Other major research projects include the Theoretical Basis of International Law by Professor Zhao Lihai, the Regime for the Ocean Environmental Protection for Exclusive Economic Zones by Professor Shao Jin, Modern China and International Law by Professor Cheng Peng, International Investment and Natural Resources Development by Mrs. Wei Qun and the Legal Regime for the Antarctic and International Space Law by Mr. Li Zhaojie.

The Institute is also engaged in collecting and editing international legal materials. To this date, the second edition of the Selected Materials of International Law has been published, the Selected Collection of the U.N. Documents and the Second Volume of Materials on International Law have been turned over to the press. Besides, the Institute is involved in the compilation and publications of the Collection of materials on the Law of War which has been published already. The compilation by Miss Tian Ruxuan of the Content of and Index to the Recueil des cours de l'Academie de droit international has been finished for reference use. Finally, a book on the English-French-Chinese Terminology of International Law edited by Professor Wang Tieya has also been published.

The Institute maintains close connection with governmental institutions, such as the Ministry of Foreign Affairs, the Ministry of Foreign Economic Relations and Trade, the Supreme People's Court, and other governmental departments which are concerned with international law. It is actively involved in the work of these institutions providing consultation and undertaking

research on topics assigned thereby. It is expected that such relations will be further developed in the future.

The Institute periodically arranges a series of lectures on issues of international legal concern for both senior undergraduate and graduate students of the University's Law Department. Up to the present time, lectures have mostly been offered by legal experts or advisors of the Ministry of Foreign Affairs, such as Mr. Shao Tianren, Professor Li Haopei, Mr. Zhang Hongzeng and Mr. He Qizhi. It is planned that in the future, experts from other institutions will also be invited to lecture.

In order to promote cooperations and exchange with foreign countries in the research of international law, the Institute has been able to have foreign professors and scholars visit or lecture at the Institute under the auspices of various sides. An incomplete record shows that about 20 professors and scholars came to lecture, and more than 30 conduct study tours from different countries, including the United States, Canada, Britain, France, Belgium, Switzerland, Netherlands, Federal Germany, Yugoslavia, Italy and Japan.

Among the foreign professors and scholars who have lectured at the Institute are Professor Bin Cheng of the University of London, Professor Ronald St. J. McDonald of Dalhousie University, Professor Nicolas M. Matte of McGill University, Madame Suzanne Bastid of the University of Paris, Professor William Burke of the University of Washington, Professor Gerard J. Mangone of the University of Delaware, Professor Samuel Kim of Mommouth College, Professor Richard Gardner of Columbia University, Professor Henry Steiner of Harvard University, Professor Eric Stein of Michigan University, Professor Lucius Caflisch of Institut universitaire des hautes études internationales, Professor I.H. Ph. Diedericks-Verochoor and Professor J.C. Schultz of Utrecht University, and Dr. Roy S. Lee of the Legal Department of the United Nations Secretariat.

In the summer and fall of 1985 the Institute held two seminars on international law. A number of well-known foreign professors of international law were invited to participate in the main lectures for the summer one. Among the lecturers were Professor Oscar Schachter and Louis Henkin of Columbia University, Professor Ronald St. J. Macdonald of Dalhousie University, Professor Jean J.A. Salmon of the Free University of Brussels, Professor Frank Newman of the University of California at Berkeley. The UNDP, American Committee on Legal Education Exchange with China, and other foreign institutions provided financial support for this seminar.

In celebration of the 40th anniversary of the United Nations, the fall seminar was held from September 9 to October 6. Dr. Kuen Chen, former Division Director of the Legal Department of the United Nations Secretariat was the chief lecturer. Other lecturers were Professor Luke T. Lee of Tufts University. Mr.

Shao Tianren and Mr. Shi Jiuyong, legal advisors to the Ministry of Foreign Affairs, and Professors Bi Jilong, Zhao Lihai, and Wang Tieya.

Under the generous auspices of the UNDP, the Institute has set up a library room housing books and materials and research facilities including xerox machines, microfilm and microfiche readers, and other equipment donated or granted by the UNDP. Thus, the library room has begun to take shape. Efforts are being made to seek further support from the UNDP.

Due to budgetary problems, however, the Institute is facing great difficulties in acquiring foreign books and materials. To fill this gap, a number of foreign friends have made their contributions. Among them were Professor Bin Cheng, Professor Luke T. Lee, Professor Salmon and Professor Lucius Caflisch. It should be particularly mentioned that Dr. Kuen Chen has generously contributed to the Institute \$2,000 U.S. dollars each year for the period of 3 consecutive years beginning from 1984 as funds for purchasing foreign books and materials. The Institute intends to explore the possibility of gradually expanding its collection of books and materials so as to become a centre to provide library services for both faculty and student body of the University and other international lawyers throughout the country. In this respect, the Institute hopes that friends abroad can give help and assistance.

The Institute intends to establish an advisory committee consisting of Chinese and Foreign scholars and other persons interested in international law. The purpose of the committee will be to provide consultation and proposals for the Institute and to offer assistance to facilitate the growth of the Institute. The Institute is now consulting in different quarters about this matter.

In the summer of 1985, Professor Wang was retired from the position of the Institute's director. It was around this time that the Institute began to encounter a series of difficulties, such as shortage of financial and personal resources as well as external political and administrative disruptions. These difficulties posed great challenges to the Institute. However, Professor Wang never given up his efforts to overcome these difficulties. With his support, the Institute has finally survived the danger of being dissolved. At present, the Institute is undergoing structural adjustment in order to make itself more adaptable to the new circumstances in China's legal education. This summer, the Institute will celebrate the 10th anniversary of its founding.

## THEMES OF T. Y.'S WRITINGS

Pre-1949. In this period of time, T. Y.'s writings partly focused on the abolishment of the unequal treaty regime imposed upon China by the Western powers (Regime of Capitulation, 1933; Questions Concerning the Leased Territory, 1936; Legal Status of Aliens in China, 1944; Conflict between Treaties and Domestic Law, 1944; State Succession and Treaties, 1945) and partly focused on the struggle against Japanese aggression to China (The Legal Concept of Armed Hostilities, 1938; Liability for Damage Caused to Aliens during Hostilities, 1939; the Legal Nature of the Japanese Blockade of the Chinese Coastal Areas, 1940). Apparently, T. Y.'s writing during this period demonstrated his great patriotism. He was preoccupied with how to apply international law to the struggle for China's sovereign equality in the international community. According to him, from the very beginning of his study of international law, he laid emphasis on applying legal doctrines to practical issues and integrating legal approach with approach of international relations. This has eventually become the salient feature of his teaching and research of international law during last 50 years in China.

### Translation from T. Y.'s Biography

During the war time, T. Y. always lived from hand to mouth. After getting married with Cai in 1942, life became even tougher. Very often, the couple had to live on debt. Even in such hard times, however, T. Y. never gave up his writing in international law. He published two pamphlets, one was entitled "Study on New Treaties" and the other, "War and Treaties". In 1944, in order to make some money for the arrival of his first daughter, he wrote an article, "the Legal Status of Aliens in China" to the Pacific Institute of China. Unfortunately, following the submission of this article, he had never heard a single word about it. Not until the time when he visited the Max-Planck-Institut in Heidelberg, Germany, in 1984, he was presented by the librarian there a copy of a pamphlet published in 1945 in the United States, where his article was carried.

In talking his personal stories, T. Y. often stresses that he is a patriot who loves his motherland ~~from~~ wholeheartedly, and meanwhile, he is an internationalist who ~~seeks~~ international friendship as part of his life. He says: "Throughout my life, I oppose aggression, oppression and war. I have been in pursuit of peace, justice and friendship to which I am always ready to dedicate myself." This summer, T. Y. will celebrate his 80th birthday. Reflecting on the past in the light of the present, he says: "For more than sixty years, I have engaged myself in studying and teaching international law in China. Due to various reasons subjective or objective, I have not made very great achievements. The only thing which I am satisfied with is that I have been confident of the progress in studying, teaching and applying international law in China and I have made my best

efforts to contribute this progress. T. Y. hopes to see that the Chinese Society can be developed into an internationally high ranking academic entity, that the Institute at Peking University can be developed into the top institution in China as well as in Asia, and that a group of Chinese young people can grow into world-level international law scholars.

**INTERNATIONAL SYMPOSIUM ON  
TEACHING AND RESEARCH OF INTERNATIONAL LAW  
BEIJING, AUGUST 17-20, 1992**

Since the late 1970's, remarkable progress has been made in teaching and research of international law in China. However, in the course of further improving international law studies, the Chinese academic community of international law has encountered serious problems, such as lack of highly qualified young teachers, serious shortage of update materials and information sources. In order to find out ways to solve these and other problems, Professor Wang Tieya, the present President of the Chinese Society of International Law proposed to convene an international symposium on teaching and research of international law in August 1992 in Beijing. Such proposal met with enthusiastic response both from the Chinese scholars and those outside China. The Chinese scholars strongly felt that they would benefit the best from sharing their experiences with, and exposure to the experience of, the foreign participants in *the field of* teaching and research of international law.

Under the auspices of the Chinese Society of International Law, an International Symposium on Teaching and Research of International Law was held in Beijing from August 17 to 21, 1992. The Ford Foundation offered generous financial support for this symposium. The theme of this symposium was to review the past and meet the challenge of the 1990's in the field of teaching and research of international law. At the symposium, the participants made a general survey of teaching and research of international law in various parts of the world, identified problems and discussed ways to solve them. On this basis, particular panel discussions concentrated on issues concerning international law in law school curriculum, theory and practice of international law, international law and other related subjects, teaching method and teaching materials, and cultural exchange and dissemination of international law. Present at the symposium were some 30 Chinese scholars coming from various universities and research institutions in China and 17 scholars from 11 different countries other than China. Professor Wang was the Chairman of the symposium. The working language of the symposium was English. What impressed the non-Chinese participants was the high professional quality, the young age, and good proficiency in English, of the Chinese participants. At the end of the symposium, participants reached "General Conclusions".



# INTERNATIONAL SYMPOSIUM ON TEACHING AND RESEARCH OF INTERNATIONAL LAW

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## GENERAL CONCLUSIONS

### I. THE GROWING IMPORTANCE OF INTERNATIONAL LAW

1. Dramatic changes in the world community and the increasing interdependence of states make the role of international law ever more important in the effective conduct of international affairs. In addition, the reemergence of the United Nations has meant that it now plays a prominent role in the legal management of international affairs, thus contributing to the modern significance of international law. For states to take part in the shaping of world affairs, expertise in international law is vital.
2. Teaching and research in the field of international law have therefore become of major significance. A good command of international law is needed not only by diplomats and experts in international negotiations and transactions, but also by such practitioners as lawyers, judges and officials working for ministries and public and private corporations dealing with international matters.
3. Along with the study of relationships among states, the study of transnational relations between individuals, and individuals and private and public entities, has acquired tremendous importance. Therefore, it appears necessary that more research and teaching be carried out not only in the area of public international law, but also in those of private international law and comparative law, as well as the relationship between them.
4. The staggering growth in international economic transactions has rendered the study of international economic law of particular relevance.

### II. INTERNATIONAL LAW TEACHING AND RESEARCH

5. Teaching and research of international law should be enhanced everywhere in the world. In this regard, China has made considerable progress in recent years, but there are still areas where great improvement is needed.
6. Basic international law courses should continue to be compulsory for undergraduate students in law schools. Wherever possible, they should also be taught in departments of political science and other relevant departments. In addition, special courses should be offered to undergraduate and graduate students in such areas as the law of international organizations, international economic law including business transactions; trade and intellectual property; international environmental law; human rights law; the law of the sea; outer space law; humanitarian law of armed conflicts.

7. Language teaching for those who participate in such courses should include basic legal terminology and comparison between legal expressions and institutions in different languages.
8. Teaching should be given a higher status within academic careers. Incentives, including career advancement, should be given for the establishment of new courses dealing with contemporary problems.
9. As satisfactory teaching must go hand in hand with meaningful scholarly investigation, legal research materials should be available to academics, students and scholars at large.
10. Consideration should be given to the establishment of a national center for international legal materials with adequate working facilities and open access to all users. A national system for inter-library loans should also be set up. The center should also be responsible for disseminating, reading and teaching materials and syllabi of foreign and national universities.
11. A systematic digest of the Chinese practice in international relations should be produced, as well as a compilation of legislation and the cases of the Chinese courts relating to international relations. These digests and compilations would be useful both for teaching purposes and for research locally and abroad. A subsequent step to be considered would be their translation into other languages.
12. Consideration should be given to preparation of a publication containing Chinese cases and materials in international law. This publication should be prepared collectively by contributors from across the country including the Ministry of Foreign Affairs.
13. The Chinese authorities should activate even further the sponsoring of collective research projects in international law, on such topics as domestic application of international law, mutual judicial assistance, the law of the sea, etc..
14. The Chinese authorities should make efforts to create more conducive conditions to attracting Chinese scholars to work in the field of international law in China. This could be done among other things by the publication of their scholarly writings and by facilitating research in the ways suggested above.
15. There is a recognized need to bridge the gap between the academic and practising international lawyers. For example, the participation of academics in negotiations and other activities of the Ministries of Foreign Affairs, Foreign Economic Relations & Trade and Justice should be continued and increased, because while the latter would benefit from their expertise, the academics should gain important practical experience.
16. The Chinese authorities should continue and, if possible, increase their efforts to allocate as many resources as possible

for the purpose of enhancing teaching and research in international law. Assistance should also be sought from outside sources, especially to fund the purchase of books and journals, to organize international meetings and conferences in China and to provide grants to Chinese scholars and students for research abroad and to fund the teaching by foreign scholars in China, etc..

17. It is recognized that enhancement of international law teaching and research in China would also yield benefits to interested scholars abroad who would gain easier access to information not previously readily available.
18. Better access by foreigners to such materials would be facilitated by the publications in English of the "Chinese Yearbook of International Law".
19. Academic institutions and journals abroad should offer assistance and encouragement to Chinese jurists to contribute articles and legal materials.
20. Modern teaching methods, including for example, using English as a medium, should be encouraged taking into account students' interests, qualification and nature of the topic involved. Moot court and other competitions argued on a regional (e.g. Beijing, Shanghai, Xiamen, etc.) or national level should also be encouraged.

### III. CONCLUSIONS

21. This inaugural symposium has proved to be extremely successful in bringing together teachers, scholars and practitioners in international law and relations from many parts of the world. It has promoted an open and productive exchange of views and experiences. We hope that it will be the first of a series of meetings to further this work.

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