

Sixth Conversation with Professor Wang

Thursday, February 14, 1991

Points on January 3rd Conversation

RM: First a word from Cai.

Cai: Today is the Chinese calendar New Year's Eve!

Point 1

RM: Is there anything further you can add regarding the period of 1976-77 when you were re-established?

TY: In 1977, I was able to begin giving courses and lectures again in the Law Department. 1978 was the year we established the section on international law. It was a section for qualified students among whom was Mr. Li who is now studying in California. The first class was the class of 1979. Actually, there were two sections. One was a section for the students, the other was for staff members. I was the staff section leader for international law at that time and also was in charge of the section of international law for the students who were enrolled in 1979. The section of professors and teachers began to be organized in 1978. The section for the students began functioning in 1979.

Point 2

RM: What was the date of the establishment of the Yearbook?

TY: It was 1982. It was published under the auspices of the Chinese Society of International Law. At the very beginning, Professor T.C. Chen and myself were co-editors. After Chen died, Professor Li Hao-Pei took his place.

RM: So the tenth anniversary is coming up.

TY: Yes. Next year will be the tenth anniversary.

RM: In 1992. You must be very pleased with the results of the Yearbook.

TY: I think it was and is very appreciated by the Chinese law community, not only international lawyers, but also those in other fields. It is regarded as one of the most academic journals in China. It is even admired by some friends of mine outside of China.

RM: Well, it has gone around the world.

TY: It has been especially well-received by countries which were more familiar with Chinese language. We did, however, select articles from the Yearbooks to be published in an English edition, "Selected Articles on International Law", but that edition was only published in one issue. It was too expensive, so we suspended the English edition until now.

RM: Is it expensive to publish the Yearbook in China?

TY: Yes, it is very expensive and over the years, we have had to face financial difficulties, because the publishers would like to make a profit. The cost of printing is very high, especially since we had certain prerequisites for the quality of paper and the type of binding - all of these were of high quality. We were lucky that we had funding from certain governmental departments, otherwise we would have had no money.

Point 3

RM: On the conference of Chinese professors and experts of international law, I remember that you had a very important conference on that.

TY: I think it was the spring of 1983, but I am not sure of the date. We had two conferences during those years. One conference was a conference of Chinese professors and experts on international law which was open to the students. Most of the participants came from universities, although there were also some experts from the Ministry of Foreign Affairs who delivered lectures.

RM: That must have been a big stimulus for the development international law in China. It must have been well-received.

TY: Another conference was in 1984. We had a conference to discuss the international law textbook I had edited. All the participants discussed the textbook chapter-by-chapter. At the time, the conference was convened in preparation for the revision of that textbook but unfortunately, we had neither the time, energy nor the money to revise it. I am hoping that the year after next we will have the time as well as the money to revise the textbook.

RM: So it will be 1994, before you get the chance to revise it?

TY: It will be sometime after 1993.

RM: Did that conference become an annual conference?

TY: Not an annual conference. We have annual conferences that are convened by the Chinese Society of International Law, which are similar to the annual conferences of the American Society, but not so extensive or academic. Sometimes we assign subjects to be discussed and developed by appointed lecturers at the conference, but we don't cover all fields of international law. For instance, this year, I think we are having a conference convened by the Chinese Society of International Law for two purposes. The first is to elect new administrative officials of the Society. The second purpose is to increase people's awareness of the current subjects of

international law which are being discussed all over the world.

We are very grateful to the leaders of the Foreign Ministry. They are coming to the conference to give their presentations on the international situations and the current problems they face in foreign relations. This commitment means there is a connection between the Foreign Ministry and the academic world.

I think you met Mr. Sun Lin. He has made a great effort to continue this conference annually and develop this connection between the Foreign Ministry and the academic world.

RM: Is the conference always held in Beijing?

TY: The conference was held once in Shanghai, but most of the conferences have been held in Beijing.

Point 4

RM: Regarding the textbook on international law - it would have been the most modern textbook available, wouldn't it?

TY: Yes, I think especially in China, it was the first textbook ever to be published on international law. At that time, it was very urgent that we had a textbook published, but no one

could write it himself. So, we collected contributions made by about 20 people all over China. In some cases, there were 2 or 3 people writing one chapter. Of course, as a result of this method, there were some defects. The contributors were not very systematic and there were contradictions between ideas contained in different chapters. Anyway, it has been the textbook used for almost all of the Chinese law schools' international law courses. After that textbook had been published, all of the smaller monographs and smaller textbooks on international law were based on that textbook.

The difficulty, of course, is that it is rather hard to edit and we have not been able to accomplish this because of our time constraints, so it is nearly ten years out-of-date.

After editing that textbook, we had the Encyclopedia of Law, edited by Professor Zhang. T.C. Chen and I edited the international law section of the encyclopedia. We also invited experts and professors from other universities to contribute articles on their various areas of expertise in international law to be published in the encyclopedia.

RM: I remember seeing that. It is a wonderful book.

TY: It contains very good information and it is a well-made book, too. It also contains some biographies of some international

lawyers and lawyers. The biographies of T.C. Chen and me were also included.

RM: The essays contained in the encyclopedia must be widely used.

TY: Yes. Both the textbook and the encyclopedia are two main references used in law schools.

Point 5

RM: Is there anything we can add about those universities where you served as a concurrent professor or adjunct professor? Have we got the right names, first of all. People's University, Nan Kai, and is there one called the University of Politics and Law? Is that one in Beijing.

TY: Yes to all of the above. I have many connections with the China University of Political Science and Law because I was invited to be the Chief of the Advisory Group for the Graduate Students. It was some of those graduate students that I tried to send abroad to study. It was also suggested by that university that I edit the dictionary of international law.

RM: The China University of Political Science and Law is right in Beijing, isn't it? It teaches international law -

TY: Yes. There are many faculty members who specialize in

international law - both economic and public.

RM: Outside Beijing, there was not too much activity in other universities on the subject of law, was there?

TY: No, there are only a few. You might say that Wuhan University was one central university for the study of international law, especially private international law; it is in the center of China. Professor Han is quite well-known in the area of private international law and he has trained young scholars in that field, quite successfully.

Another university would be Zhong Shan in Canton. One of my former students, Duan Mu, was the Head of their international law department. Now, Professor Duan Mu serves as (Deputy Chief/Vice President) of the Chinese Supreme Court. They have made efforts to study international law in specific fields, especially the law of the sea, and Taiwan and Hong Kong law.

I was very disappointed with Shanghai. I thought that it could have been a center for the study of international law, unfortunately, people there are not very good. Only one person on their staff was a very good professor. It was Dong Shi-Zhong who is now in California, so I don't expect that Fudan University can develop the teaching and studying of

international law right now.

RM: But why would Shanghai not be very good? It's such a large city, with so many resources.

TY: I think the fundamental reason is that Shanghai is a center of business. They are more inclined to do business in the economic world. Shanghai is a very commercial city. In former China, we divided the academic world into two schools: the South School of Shanghai - which is more business-oriented and Beijing - which is more academically oriented.

Point 6

RM: This next point relates to page 16, in 1989 where there are difficulties in Peking.

TY: In its Journal, the emphasis of Peking University is Science, History, Literature, then followed by law, as well as the other social sciences. The funding for law by the university was insufficient in regard to budget and personnel maintenance etc. That was one thing. Another problem was that since the university authorities put the most emphasis on teaching, not on research, the International Law Institute at Peking University was disregarded. This was also complicated by the fact that the Institute is not officially attached to the Law

Department, and so it is not under the direct control of the university. Equally, the Law Department did not have a connection with the Institute, so they did not pay too much attention to it, since it was not part of their 'organization'. Rather, the Law Department has focused on its own concerns. These have been the difficulties which we have faced over the last ten years.

Point 7

RM: When did you give up the directorship of the Institute? What will the future of the Institute be?

TY: I resigned as Director in 1985. The future of the Institute, however, depends on a number of things. There has been some thought about re-organising the Institute, because they will establish a real Faculty of Law, not like the Law Department, then the Institute would belong to the Faculty of Law and would enjoy equal status. That would be better. The difficulty now is money for the budget and personnel, which is not a very easy problem to solve. I thought last year that I should come up with a plan to submit to the authorities to revise the structure of the Institute. I don't know if it would be possible or not. You know the situation at the university is rather confidential, but it is not so good right now. As a part of the university, the Institute's future would also not be so good.

RM: Does the Institute still have its little house?

TY: Yes, but when the construction of the new law building is finished, it will move to the same building as the Faculty of Law.

RM: That's too bad, because it is a lovely little house.

TY: It's too small. After all, it has only two rooms. Originally, we planned to be somewhere other than that building, but it was too expensive.

Point 8

RM: Coming back to the book on Kelsen. Who published it and when?

TY: It was the Law Publishers in Beijing, in 1988.

RM: It hasn't been reviewed yet, so we don't know whether people are interested.

TY: No, but I think maybe Miss Bai would be interested in it. I have asked her to write a review on the book.

RM: That would be very appropriate.

Point 9

RM: What about your collection on the law of the sea. That would be very important, too. What was that?

TY: It was a collection that I compiled in the early years, after the convening of the third Law of the Sea Conference. I thought that certain people would like to have material gathered concerning the law of the sea conference. I prepared it and found a variety of material from different sources. It was published in Chinese, including the materials that were concerned with the Chinese position towards the sea in the early stages of the conference. It was a very popular collection in China; most of the international law students and scholars who study the law of the sea still use these materials. It is regretful that the materials are out-of-date, but we have no money to update them.

RM: Still, you know you have been a pioneer all along the way. Your textbooks, your translations, your articles, this collection, you have always been the first.

TY: It may be said that this collection was the first on the laws of the sea. Also, I was the first person who put more emphasis on the study of the continental shelf. Consideration of the problem of the continental shelf is a very important area of study as far as the Chinese government is concerned.

I collected material on that problem...

RM: You see, again, you were the first. You have been the first in all of these areas.

Point 10

RM: Next point is about this major study of the practice that you are doing. That is going to be a very big work, isn't it.

TY: Most scholars in China would like to have resource material concerning the Chinese position toward international law, but we don't have any books on that subject, such as Marjorie Whiteman's book, or even an older one: the Japanese practice. I was advised by scholars and students to make an effort to collect all the materials relating to the practices of the PRC. I have already worked on it for 2 or 3 years, not all of the time. You know, the idea for this project was submitted to the State Education Commission, also to the Social Science Academies. They included this project in the "State" projects, which means it gets first priority. They allot some money for my use - only Chinese currency, not foreign exchange. I had some difficulty with the fact that the money could not be used to employ assistants, so I have had to do the work myself, which has delayed the progress. I hope this work will be completed by this year, or the year after next.

RM: The completion of this project will be a very big burden in the next few years.

TY: Yes. It will be a big burden, but the difficulty is also due to the difficulty of getting material from the Ministry of Foreign Affairs. They don't like to release their material to be used by professors or other academic people, so they try to keep it inside the Ministry. I was told that a number of documents were destroyed during the Cultural Revolution, which makes things even more difficult. They are very confidential about this matter - it doesn't make the Foreign Ministry look good if word gets out that all of their archives were destroyed. Anyway, the material I need is published material, so there are other sources I can get it from.

RM: Do you have an idea of the subjects you will be covering? Of course, you will focus on the subject which are of most interest to China.

TY: Oh, there will be a variety of subjects. For instance, it will include the law of the sea, space law, nationality, even armed conflicts, because we have had 3 or 4 armed conflicts with other countries. There is also the treatment of aliens, and (recognitions) - a number of topics. Of course, certain topics have more resource material available than others, but my job is to elaborate on all of the materials and provide

explanations which relate to the Chinese position and attitudes.

RM: That will be a very demanding work. You will have to write a commentary.

TY: Well, it will not exactly be a commentary, but it will be an implied commentary. You see, Cohen and (Chiah Un Pa) edited big volumes on People's attitude towards International Law several (20?) years ago. Now the younger generation of international lawyers - (Cirque and Fineman) - have got the grant from (McArthur) Foundation of \$100,000 to edit the Chinese Practice of International Law. I haven't got that kind of money. However, the documents they have collected are unofficial; they have also included certain writings of scholars and some other additions. I think their version does not reflect the official position and attitude of the Chinese government.

RM: Yours will be much more authoritative.

TY: My edition will concentrate all the official documents and materials. I will not make any unofficial additions. There will lie the difference between the two (books). Possibly their work will be more 'monumental', that is to say, it will be 2 or 3 volumes. My volume will be smaller, but will be

concentrated; I think, something like Oda's.

RM: Will you get any help at all from the Ministry? Will some of their experts be able to advise you?

TY: I will be able to talk with them, but I don't think they will be able to spare any time to work with me.

RM: They might be able to help a little bit with the direction of your volume.

TY: A little bit. However, the Ministry officials don't like to take responsibility of giving any advice. They want to make only 'official' presentations.

RM: It will be a very large work, requiring a lot of effort.

TY: Yes. That is the reason why I would like to work on it outside of China. It will be easier to concentrate my effort on that.

RM: Maybe when you come back here, you would be able to do that.

Point 11

RM: We are going back to talking about how your volume will be more authoritative than (Silke's).

TY: You know, among Chinese scholars, there still are differences of opinion. If [an author] includes all the writings by other scholars into his book, there will clearly be differences of opinion between the Chinese attitude and the writings of outside scholars. Your book would not reflect an official attitude. For instance, on the subjects of international law, some people would include individuals, some people would not include it, and some people might say that the organisation of international law is not the subjects of international law. Or, in the instance of the definition of 'aggression', for example, some would refuse to define it; some would say that the definition of aggression which was passed by the United Nations General Assembly is quite good. So there always exists differences of opinion. These differences of opinion you can include in books, but a book that would include them does not reflect the practice of the PRC.

RM: In your book then, unlike the (Silke) book, you will not mix the private and the official.

TY: I am attempting to be similar to Marjorie Whiteman or to Oda, whose books do not include private commentaries.

RM: You will stick to the official government position.

TY: Yes, as it is represented by the official documents.

Point 12

RM: Coming back to your Hague lectures, then the reason it was the Chinese year was that there were two lectures, isn't it?

TY: Yes. One in private international law and the other in public international law. No such cases had occurred in the past.

RM: For my account, we could say that yours was the first one in public international law.

TY: Yes. Especially since 1949, because before then, there was Dr. Ding.

RM: But nobody since 1949. That's another first. You have been a trailblazer.

TY: I was elected to the World Academy of Arts and Sciences under the recommendation of Professor Macdonald. When the news came to Beijing, the President of the University, at that time it was (Dr. Caing), called me and congratulated me. Because he had known that-

Point 13

RM: General developments in international law and then on your supervisor.

TY: I have said that the real academic work on international law was not done much before 1949, in the sense that there were very few journal works on international law, even very few monographs. The monographs that existed mostly dealt with unequal treaties. Of course, there were some international lawyers, but they worked in the government, not in the academic world. The only exception, I think, was the person I mentioned, Professor Zhou Geng-Sheng, who used to be a professor of international law at Peking University during the '20s, in the early years of his life. Afterwards, he continued to work on international law, while at the same time, got involved in politics. He later became the President of Wuhan University and taught international law there. It was he who introduced me to Wuhan University when he left to go to the United States to stay with (Ho Shu), the Ambassador of the Chinese government in Washington. So, there were no professors teaching international law in Wuhan University in 1939. When I came back from England, he recommended me to that university, so I started my teaching career in 1940 as a professor at Wuhan. I taught there for 2 years and then transferred to Central University. At that time, he was a high official in Chungking in the Kuomintang government.

RM: Where was Central University?

TY: It was in Chungking - the War Capital of China. He again

became President of Wuhan University before 1949. After 1949, he was invited by Premier Zhou En-Lai to come to Beijing to be the Legal Advisor to the Foreign Ministry. From 1950 on, he served as the Legal Advisor to the Foreign Ministry until his death. He wrote a large book on international law, which was not a textbook, but it was still a general work on international law that was popular with scholars after 1949. He was a great influence on the development of international law in China.

RM: Am I correct in saying that you are, in a sense, his successor?

TY: In a sense, yes, but I have never been involved in politics.

RM: No, I realize you have never been in the Foreign Ministry. What I meant was in the sense of being the number-one scholar of international law and you are the professor at Peking University, etcetera. So, from that point of view -

TY: You can say that, yes. Also, however, he was much more influenced by Soviet doctrine than I have been. His official positions [with the government] required him to write articles that assimilated the Soviet doctrine. People in official positions cannot avoid this.

Point 14

RM: Is there anything else on the four major periods of international law and Chinese history that we should add?

TY: I think it was very interesting that I went to London to meet Lauterpacht the first time. He asked me a question: Why do Chinese scholars concentrate so much on the study of treaties? I answered that it is quite natural, because international law did not function in China under the regime of unequal treaties, so the Chinese scholars studied treaties and the abolition of treaties. He put this question to me, not because I intended to study treaties at that time, but he had met a lot of Chinese scholars studying treaties. For instance, (Eu) published a treatise on the interpretation of treaties. After that, Dr. (Chung) also did studies on treaties. Even (~~Wu Li Dun~~^{W. L. Dun} Koo) submitted his doctoral thesis to Columbia Law School and it was also about treaties. I could name a lot of scholars who concentrated on that subject. It was the most important subject of study at that time. After 1949, of course, everything changed because the treaties had been abolished and the Chinese government had to face so many problems in international law. They encouraged new students to study international law and so the focus was drawn away from treaties. In the first years of the Republic, I was required by the government to study unequal treaties for a short period, because under the common program, the treaties

concluded by the Kuomintang government had to be reviewed. The treaties had to be separated into categories: to be abolished, to be revised, to be renewed, or to remain in force. I had a chance to study the treaties in the first few years of the establishment of the PRC. That is also the reason I edited the volumes. I had to go through all of these treaties anyway.

RM: Right now, we're waiting for the next period -

TY: Yes. During the period after 1949, not many works were published. Still the scholars in China had studied different aspects of international law, especially during the ten years from 1978-1988. Some new branches of law were addressed; for example, the law of the sea and space law, as well as other branches of international law. The economic aspect of international law especially grew vigorously.

RM: Would you say that the economic aspect of international law would be the most important aspects in the field today?

TY: Yes, but I think if there is too much attention paid to this subject, it would not be appropriate, because the young scholars might lose interest in public international law in a traditional sense. That wouldn't be good because we still have very important problems to be studied in China concerning

public international law; for instance, territory, boundaries, treatment of aliens, even armed conflicts. We have to study the Four Geneva Conventions. I have studied the Geneva Conventions, because in 1977 there was a conference on the two protocols. It was me who prepared the materials for the Chinese delegation to go to the conference. It wasn't published. I wrote a lot about the draft of the protocols and made suggestions and comments on them.

Point 15

RM: Last thing, in the encyclopedia, there is a biography of you and of T.C. Chen. Would there be one of this gentleman we just spoke about?

TY: Yes. Of course. Some of the people have died. Others are still living, including Li Hao-Pei.

I would like to include international lawyers in my dictionary - both foreign and Chinese. So I would like to request a list from you of foreign contemporary international lawyers qualified to be included.