



**Web Journal of  
Current Legal Issues**

Bjornstol, 'Human Rights Law Education in China', [2009] 1 *Web JCLI*  
<http://webjcli.ncl.ac.uk/2009/issue1/bjornstol1.html>

## Human Rights Law Education in China

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First published in Web Journal of Current Legal Issues

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### Summary

2008 marks not only the 60th anniversary of the Universal Declaration of Human Rights, but also the 30<sup>th</sup> anniversary of the opening up and reform policy of the Chinese government. There has been remarkable development both in the legal system and in the legal education system in China in the last thirty years. The Preamble of the Universal Declaration encourages human rights education and human rights law is gradually becoming a legitimate field of legal education in China. There is now a group of committed human rights teachers in China who not only teach human rights law, but who also participate in policy reform debates and act as advisors to the Chinese government. These teachers will shape the future of human rights law teaching in China. Human rights law is still a new field of study in China and little research has therefore been done on the impact of it. It will be interesting to see whether future students will be able to make use of their knowledge about human rights in concrete ways and whether human rights law will become a core obligatory course for all law students in the near future.

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## Introduction

“Now, Therefore THE GENERAL ASSEMBLY proclaims THIS UNIVERSAL DECLARATION OF HUMAN RIGHTS as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction”  
(Excerpt from the UDHR Preamble, 1948)

2008 marks the 60th anniversary of the Universal Declaration of Human Rights. The Universal Declaration has had widespread influence, and all international human rights legal instruments adopted since then elaborate the principles of the Universal Declaration. All countries in the world have engaged with the Universal Declaration in one way or another. The Preamble of the Universal Declaration encourages the promotion of respect for the rights and freedoms set out in the Universal Declaration through teaching and education. The importance of human rights education has since 1948 been restated again and again by the UN General Assembly, first through the Human Rights Education Decade (1995-2004), and since then through the World Programme for Human Rights Education that started in 2004.

2008 also marks the 30<sup>th</sup> anniversary of the opening up and reform policy of the Chinese government and there has been remarkable development both in the legal system and in the legal education system in China in the last thirty years. While the Chinese government was very vocal against human rights law in the early 1990's, it now engages directly with the values of the Universal Declaration and with human rights law issues. Since the beginning of the new Century there has also been a considerable growth in human rights law courses offered in law schools in China's elite universities. The Norwegian Centre for Human Rights (NCHR) has, together with the other Nordic human rights institutes i.e. the Raoul Wallenberg Institute for Human Rights and Humanitarian Law (RWI) and the Danish Institute of Human Rights (DIHR), been involved in providing training courses for human rights law teachers in China. This article will provide an overview of legal human rights education in China and discuss the possible impact of such education.

## The legal human rights discourse in China

During the Cultural Revolution (1966-1976), most of the existing legal institutions in China were destroyed and since the start of the opening up and reform period in 1978 the focus of the Chinese government has therefore been on restoring the legal system and on establishing a system of rule of law. (Chinese government whitepaper 2008) Discussions and research on human rights did not appear in China until the 1980's, and the debates on human rights then concentrated on theoretical discussions of compatibility with the socialist system and with

international sovereignty. Human rights research was not encouraged by the Chinese government at all in this period (Sun 2006, p 59).

After massive international human rights critique following the official crackdown on the Chinese democracy movement in 1989, the Chinese government started endorsing domestic human rights research. Input was needed on how to respond to the critique and the Chinese government sought to develop a theoretical position on human rights that could justify their policies. In 1991 the Chinese government published the first Human Rights in China white paper where they interpreted Chinese laws in terms of human rights. The white paper defined the government's view on human rights and placed much emphasis on the right to subsistence and economic development as necessary for the enjoyment of human rights (Chinese government whitepaper 1991). In this period more research on human rights therefore started to emerge, and several academic human rights research centres were opened. There was little focus on international human rights law per se. In the middle of the 1990's the human rights discourse between China and Western countries became less confrontational and there was more focus on diplomacy and dialogue.<sup>1</sup> This opened up possibilities for foreign donors to start cooperation projects on human rights issues in China. The academic China programmes at the NCHR, the RWI and the DIHR became involved in capacity building activities on international human rights law for Chinese legal researchers from the mid nineties. From 1999 to 2003 for example they co-organised annual two-week academic meetings where focus was on capacity building on human rights topics in order to facilitate Chinese research that would take international human rights law into account (NCHR China programme annual report 2003).

The Chinese government has continued to engage with international human rights law since the early 1990's. In addition to participating in human rights dialogues with Western countries, China has now ratified six international UN conventions of international human rights law.<sup>2</sup> In 2004 the National People's Congress amended Article 33 of the Chinese Constitution in order to include the sentence: "the State respects and safeguards human rights" and in 2006 China became a member of the new UN Human Rights Council. China has also declared that they will develop a Human Rights Action plan outlining their human rights priorities for the future by the end of 2008, and in 2009 they will have to undergo their first review in the Human Rights Council (<http://www.latimes.com/news/nationworld/world/la-fg-rights7-2008nov07,0,2674520.story>).

Although China is engaging with human rights, there are still many problems that need to be addressed. Consistent with their initial definition of human rights in 1991, the Chinese government has for example focused mostly on economic development, welfare and poverty reduction issues. Democratic development has not been prioritized. Civil society and human rights activists are still strictly controlled and although the legal system has developed considerably in the last thirty years the legal protection of individuals is still weak because there are huge problems in the implementation of laws locally (Amnesty International Report 2008). Still, in a historical perspective the opening up process has been remarkable and there is much more freedom in China today than thirty years ago. This trend can also be seen in the legal field where the legal system and legal education has had remarkable progress.

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<sup>1</sup> China has for example participated in annual human rights dialogues with Norway since 1997

<sup>2</sup> International Covenant on Economic, Social and Cultural Rights (ICESCR), International Convention on the Elimination of All forms of Racial Discrimination (ICERD), Convention on the Elimination of All forms of Discrimination against Women (CEDAW) Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment (CAT) Convention on the Rights of the Child (CRC), Convention on the Rights of Persons with Disabilities (CRPD)

## Legal Education in China

Only two law departments and one legal college survived the Cultural Revolution (Ji 2004, p 2) but the Chinese government has made many concrete efforts to promote legal education in the last 30 years. The planning of formal legal education in China is done by the Ministry of Education, and an 11th five-year plan for legal education is now in effect.

According to Professor Ji Weidong, the development of Chinese legal education after the Cultural Revolution can be divided into 2 main phases: A restoration phase before 1993 characterized with legal instrumentalism and a phase of general development of legal education and rise of legal professionalism after 1993. By the end of 1993, China had 135 regular colleges/ departments of law and 114 continuing higher educational schools of law (Ji 2004, p 3). The number had risen significantly by the end of 2006. By then, 603 institutions were offering bachelor's degrees in law, and nearly 300,000 students majored in law each year. 333 institutions were also entitled to offer master's degrees in law and 29 institutions could offer doctorates in law (Chinese government whitepaper 2008).

In addition to changes in the number of legal educational institutions and students, the structure of legal education has changed significantly in the last thirty years. During the 1980's and 1990's Chinese law schools divided students on bachelor level into various speciality programmes like criminal justice, economic law etc. Each speciality had its own special course settings. The Chinese study programs for LL.B students were unified by the Ministry of Education in 1998 however, and thus nationally integrated into one general program of law. There are now two routes in Chinese legal education: The traditional way for academic lawyers which includes LL.B. of 4 years, LL.M. for 3 years and the possibility of taking a J.S.D for 3 years. The other route is for practising lawyers and includes three kinds of tracks, either a LL.B for four years for law related jobs, a LL.B. for four years and one year of professional training for legal practice or a regular bachelor degree in a non-law field for four years and then a J. M. (Ji 2004, p 16)

During the LLB, students take 35-40 courses. Some mandatory courses like physical education, Marxist theory etc. are common with undergraduate students from all the academic disciplines. There are also both mandatory and elective courses specific for the LLB. Since 1998 The Ministry of Education has required that 14 "core courses" must be taken by all LLB students.<sup>3</sup> (Wang 2000 2-3). The Ministry of Education has also published a list of approved elective courses that may be offered at Chinese law schools. The types of elective courses actually available in an LLB vary from university to university. Students usually complete their mandatory courses in the first 2 years of the LLB, and then finish the elective courses in the last 2 years before writing their graduating thesis (Sun 2006, p 62). At the Master level, there are 10 approved Master programmes designed by the Ministry of Education.<sup>4</sup> In each programme there are several research directions. Students write their Master thesis in the

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<sup>3</sup> Chinese constitution, jurisprudence, civil law, criminal law, civil procedure law, criminal procedure law, administrative law and administrative litigation law, Chinese legal history, introduction to economic law, introduction to commercial law, intellectual property law, international law, international private law, introduction to international economic law.

<sup>4</sup> Jurisprudence, legal history, constitutional and administrative law, criminal law, civil and commercial law, procedure law, economic law, environmental and natural resources law, international law and military affairs

subject of their research direction and must defend their thesis before a committee in the end of their studies (Sun 2006, p 61-62).

## Human Rights Education in China

Since the early 1990's, human rights law was taught at some law schools as a small component of legal subjects like international law, jurisprudence or constitutional law. Human rights law was not taught as an independent course by itself at any Chinese law schools however. This changed when the Chinese Ministry of Education (MoE) in 2001 issued a Notice that human rights law was to be included in the list of approved elective courses for law schools in China. Human rights law was now placed as number 15 in the Ministry of Education list, just after the 14 required law courses (NCHR China programme annual report 2001). Scholars have thus expected that human rights law would be included as a required core course in Chinese law schools in the near future (Sun 2006, pp 68, 77). This has not happened yet, but the notice has opened up space for law schools to offer optional courses in human rights law. In comparison, no other academic disciplines in China can offer human rights as an individual course yet. There was considerable interest in human rights issues among legal scholars in China in 2001, but no legal institutions had the qualified teachers, teaching capacity or indeed teaching materials to start offering such optional human rights law courses for their students.

## Courses on international human rights law for law teachers in China

In this situation the China programmes at the NCHR, RWI and DIHR saw an opportunity to contribute to the development of legal human rights education in China, and they decided to get involved in capacity building activities for law teachers wishing to teach human rights courses. The Nordic institutions are the only foreign institutions which have focused systematically on the training of human rights teachers in China. While the Nordic institutes have cooperated on some human rights education projects, they have also developed their own individual human rights education projects that in many ways complement rather than compete with each other. The joint objectives of their human rights education activities in China has been to increase the knowledge of international human rights law standards and teaching methodology among law teachers in China so as to facilitate both the start up of human rights law courses and the incorporation of international human rights law standards into already existing courses on international law, constitutional law or jurisprudence.

From 2001 to 2007 the Nordic institutes have supported seven annual two-week courses in international human rights law for law teachers in China. Interested law teachers from all over China could apply for the courses and approximately 25 participants were selected on a competitive basis to attend each course and many of the teachers attended several annual courses. Many participants in the first courses had never studied international human rights law before. In the beginning well known foreign human rights experts came from abroad to teach in the courses since there were no available teachers in China who had the knowledge or expertise to teach the participants. This situation has changed somewhat. After extensive studies and research both in China and abroad, several Chinese scholars have now become experts on international human rights law or on specific human rights topics. In the last courses many Chinese scholars thus lectured for the Chinese law teachers. The courses were organised into lectures, discussions and group work and focused on both introducing substantial knowledge of international human rights law, on teaching methodologies and on

facilitating networking among participants. The first courses were very basic, but as the knowledge of some of the participating law teachers developed progressively, so did the courses. In the last years the courses became very advanced and it was thus necessary to have prior knowledge of international human rights law in order to participate in them (NCHR Annual reports 2001-2008).

In addition to such joint training activities, several of the Nordic institutions organised complimentary individual activities. The NCHR has since 2005 organised an annual two-week international human rights law course in the less developed part of Western China. They saw the need to specifically target law teachers from those regions in order to strengthen human rights education and research at law schools in the Western provinces of China. The joint Nordic sponsored teacher courses had become too advanced and the competition to attend was so fierce that participants from Western China had become underrepresented. Many of the experts providing the training in these international human rights courses in Western China have been Chinese human rights law experts. Many of the law teachers participating in these trainings have now attended several annual courses and some have now already opened courses in their home universities in Western China. The academic level of these courses has thus also developed from introductory to more advanced courses (NCHR Annual report 2008). In 2009 the NCHR has thus decided to start organising a new annual basic introductory course in international human rights law in order to recruit brand new law teachers to human rights teaching. The other two types of teacher trainings have become so advanced that it is difficult for new teachers to follow lectures without attending an introductory course first. The content of the introductory course will be standardized so that all new human rights law teachers in China from now on receive the same standard introductory training (NCHR Annual plan 2009). While the NCHR has focused on reaching law teachers from universities all over China, the RWI has instead decided to concentrate their efforts on a few institutions in their individual projects. For some years, they have supported a few select universities in Western China in order to enhance their teaching, research and curriculum development (<http://www.rwi.lu.se/coop/asia/china.shtml>). The institutions receive both institutional support and help from national and international experts to develop syllabus, collect teaching material and teach courses (Bakke et al 2009, p 4-5). It is safe to say that human rights law is gradually becoming a legitimate field of legal education in China and that a group of committed Chinese human rights teachers have emerged.

### Courses in international human rights law for law students in China

A total of more than 200 Chinese law teachers have now been trained in international human rights law by the Nordic institutions, they have come from 76 different institutions in China and from 25 provinces or province level municipalities (Bakke et al 2009, p 11). Many of these teachers are today active in teaching human rights law and the number of law schools where independent human rights law courses are opened is constantly increasing. When the Nordic institutions started training law teachers in 2001 there were no independent courses in international human rights law. In 2003, 13 universities had opened courses (NCHR China programme annual report 2003) and today there are more than 30 universities offering human rights law courses in China. In addition, many more law teachers are now incorporating international human rights law standards into their law classes on constitutional law or jurisprudence or international law (NCHR China programme annual report 2008).

The optional human rights law courses that are offered at Chinese universities vary in focus and in length, but most are organised into 36 hours of lectures. There are optional courses on

human rights law on both bachelor and master level, but not all universities offer both types of human rights law courses. Chinese human rights law teachers do not receive any help or funding to open courses from the Nordic human rights institutions. After they have participated in trainings it is up to their own institutions whether they want to open courses and how to organise them. In order to further encourage and strengthen networking and cooperation between Chinese law schools in the field of human rights education and research however, the Nordic institutes have from 2008 sponsored an annual 3-day network meeting of some 60 Chinese human rights teachers. These meetings are organised by the human rights teachers themselves and provide a forum where scholars who are already teaching human rights courses can exchange and discuss experiences and plans regarding curriculum development and teaching methodology and also discuss the future development of legal human rights education in China.

There is no common curriculum on human rights law in China as of yet and in the start there was a lack of teaching materials available in Chinese language. The NCHR in cooperation with the Chinese University of Political Science and Law and the Foreign Affairs College developed and published the first Chinese language textbook on international human rights law in 2002<sup>5</sup>. The NCHR then donated more than 3000 copies of the textbook to university libraries all over China so that it would be available to students and the book is on sale in all major bookstores (Bakke et al 2009, p 7). Since then, at least four more university textbooks on human rights law have been published. Among these, one textbook called “Human Rights Law” has been developed by scholars handpicked by the Ministry of Education and is thus regarded as an ‘official human rights textbook’. Some Chinese scholars see this as another sign that human rights law will soon become a required core course in Chinese law schools (Sun 2006, pp 57, 73-74). Textbooks are important in education, but as Professor Sun has noted it is also extremely important to pay attention to the perspectives on human rights portrayed in such textbooks and the methods used for organising the contents of textbooks (Sun 2006, p 74). Not all textbooks focus on international human rights law, some focus more on the theoretical developments of the human rights concept or on cases. There is therefore not one comprehensive Chinese textbook that cover all the complicated aspects of human rights law and many law teachers thus use several textbooks in their teaching. Human rights teachers in China are concerned with developing the best possible curriculum for their teachers and thus also spend much time gathering other material for their students. At the 2008 annual network meeting for human rights teachers much time was spent on discussing how to include other material like translated foreign books about human rights topics, case law, information about human rights problems and solutions in other countries, UN reports, movies etc into their teaching. Interactive teaching methods like UN role plays, moot courts and practical experiences like legal aid etc are also used (NCHR China programme annual report 2008).

In addition to the regular 36 hour optional courses in human rights law offered at some 30 universities, there are some other interesting international human rights law education activities at the law schools at Peking University, at the Chinese University of Political Science and Law and at Changchun University.

Supported by the RWI, the Research Centre for Human Rights and Humanitarian Law at the Peking University Law School started a Research Direction in human rights law for Master

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<sup>5</sup> IHRIL Textbook Project Group (eds) Guoji Renquanfa Jiaocheng (Textbook on International Human Rights Law). Beijing, China University of Political Science and Law Publishing House 2002. ISBN 7-5620-2263-1/D

students in 2004, when the Research Centre got approval to add a research direction of human rights to one of the already existing research directions under the LLM programmes (Sun 2006 p76). The human rights direction is taken over 3 semesters and approximately 20 students have been enrolled each year (<http://www.rwi.lu.se/coop/asia/china.shtml>). Eight courses are taken in the first two semesters and in the last semester the students write their thesis. The courses are taught by professors at the Peking University Research Centre for Human Rights and Humanitarian law and by foreign visiting professors and guest researchers (Bakke et al 2009, p 4).

The Institute for Human Rights and Humanitarian Law at the Law Faculty of the Chinese University of Political Science and Law in Beijing started a 3 year research direction under the MA programme in Jurisprudence in 2005. In 2007 it became a full degree programme and now offers both a Master degree and a PhD in human rights law. This degree programme is funded solely by Chinese sources and is the only existing full degree programme in human rights law in China (Yeh 2009, p 10).

The North-East Normal University in Changchun is establishing an interdisciplinary, optional and credit-giving course in human rights for third and fourth year students in 2009. The project will be funded by the Royal Dutch Embassy in Beijing, but implemented by DIHR and carried out by a network of universities in Changchun. There will be four 36-hour courses: Introduction to International Human Rights, Human Rights and Development, Business and Human Rights and International Humanitarian Law ([http://lawprofessors.typepad.com/china\\_law\\_prof\\_blog/2008/12/lecturer-on-hum.html](http://lawprofessors.typepad.com/china_law_prof_blog/2008/12/lecturer-on-hum.html)).

### Possible impact of human rights law teaching in China

There have been very few general studies on the impact of university human rights law education although there has been a rapid growth of such education all over the world since the middle of the 1990's (Tibbits 2006). In China, where human rights law education emerged even later there has been even less research on such issues.

One very visible effect of all the different legal human rights education activities in China is of course that more and more students receive human rights training, that more and more law teachers are trained in how to teach human rights law, that more and more law teachers actually do teach human rights law and that more and more law schools now offer human rights law courses. These increasing numbers are in themselves a remarkable change from when there was no human rights law teaching in China. Human rights law is gradually becoming a separate field of legal education in China and a group of committed Chinese human rights teachers have emerged.

While the overall objectives of the Nordic involvement in human rights education in China is to contribute to strengthened human rights teaching, there is also a long-term goal of wider social change and the improvement of human rights protection (Bakke et al 2009, p 3). It is of course much more difficult to determine that human rights education may have such societal impact.

Jessica Yeh has interviewed most of the students participating in the international human rights law master courses at Peking University (approximately 80 students) and China University of Political Science and Law (approximately 20 students). Yeh divided the possible impact of the master courses on the students into four useful categories: Mental



impact (changes in attitudes), behavioural impact (changes in behaviour), career impact (possibilities to make changes in the workplace) and institutional impact (possibilities to contribute to making wider institutional changes). What she found was that while both study programmes have produced considerable mental impact and changes in attitudes among the students, this potential may be lost in the future because the wider institutional context in China provides no opportunities for human rights activities (Yeh 2009, p 38). Law students from other universities following optional 36 hour law courses in human rights law were not part of the study so it is difficult to know whether it is possible to generalise these results or not. Many of the students in the Peking University human rights law course did not have a background in law for example, and it would thus be more difficult for them to find work in legal institutions where they may be able to influence legal changes than for regular law students in other universities. On the other hand, others have also pointed out that it is always very uncertain whether any students of human rights law will pursue human rights related careers (Bakke in Yeh 2009, p 9). It is of course always a problem to predict where students will end up and there are definitely very few direct human rights work opportunities in China. There is a sense however that it is still too early to tell what the influence on human rights law students may be. When these students move from the junior positions they are in now to more senior positions more room for input and thus behavioural, career and institutional impact may open up. Another problem with measuring societal impact of the human rights law education of law students is that there are still too few students who have studied human rights law in comparison to those who have not. If human rights law courses become mandatory core courses like Professor Sun seems to expect, then all future law students will receive human rights training. A whole new generation of lawyers and legal scholars who have all studied human rights law may have much better possibilities for career and institutional impact than the few students who take human rights law as an optional course.

For the NCHR the rationale behind the focus on training of law teachers instead of directly training students has been one of sustainability. By educating the educators, the dissemination of knowledge about international human rights law may be more stable and effective and thus reach even more students in the long run. The potential these educators from elite universities have for influencing the education of the future generation of legal workers and legal scholars is unique.

In addition to their important role as educators, human rights law teachers are also resources on human rights in their own right. Many human rights law teachers also conduct their own research and publish articles and books on human rights law issues on a regular basis thus disseminating knowledge about human rights law not only to their students but also to the wider academia, to policy makers and to the general public.

In China today, it is not possible to be in opposition to the government and human rights activism is banned. In this environment the work of human rights law teachers and human rights law researchers becomes even more important and scholars have in some instances been able to use the law to advance social reform. Human rights law scholars are for example often asked by government agencies to participate in important law and policy debates and to give advice and comments on the drafting of, or amendments to, laws and policies. Human rights law scholars have also been involved in important public interest litigation cases that have had reformed local policies and laws.

## Conclusion

Human rights law is gradually becoming a legitimate field of legal education and there is now a group of committed human rights teachers in China who not only teach human rights law, but who also participate in policy reform debates and act as advisors to the Chinese government. These teachers will shape the future of human rights education in China and it will be interesting to see whether future students will be able to make use of their knowledge about human rights in more concrete ways and whether human rights law will become a core obligatory course for all law students. The Chinese society is changing rapidly and future generations of legal scholars and practitioners will be expected to adapt to these changes. It is important to remember that there are still enormous problems in implementation of the rule of law in China because of human rights violations, corruption within the legal system and lack of legal education of judges and police. Future legal scholars and practitioners will have to deal with all of these problems, and a background in human rights law will be extremely useful for this endeavour.

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