

INTRODUCTION: CELEBRATING STANLEY LUBMAN

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On April 15, 2005 more than sixty scholars from China, North America, and Europe gathered at Columbia Law School for a conference in honor of Stanley Lubman. The conference celebrated Stanley's seventieth year—and more importantly, his tremendous contribution to the field of Chinese legal studies. This special edition of the *Columbia Journal of Asian Law* includes a selection from the twenty papers presented at the conference.

Stanley Lubman is one of a handful of 20th century Americans who pioneered the study of Chinese law. He has had a tremendous impact upon the development of this subject in the United States—teaching over the years at a number of top law schools and authoring distinguished scholarship. Stanley's scholarly career has in many respects mirrored the rapid development of Chinese law over the past forty years. Stanley began his research on China by interviewing refugees from China arriving in Hong Kong—for at the time it was impossible to enter China. In more recent years, Stanley has played an important role bringing American and Chinese scholars together to advise the Chinese government on the continuing evolution of China's legal system, most importantly in administrative law. He has also served as a mentor to scholars of Chinese law around the world.

When we began planning the conference, we decided to celebrate Stanley's role in developing the field of Chinese legal studies by highlighting the work of “younger” scholars. A doubt occurred; were there really enough scholars of Chinese law to fill an entire day's program? Would anyone produce a paper? Would anyone attend?

In the end, we struggled to cram twenty papers onto the day's agenda. Others who had planned to present papers graciously yielded their places to allow younger scholars to present. We all agreed that when we gather to celebrate Stanley's eightieth birthday we will likely need to schedule a week of discussion rather than just one day.

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A. Stanley Lubman and Columbia

The conference was primarily designed to mark Stanley's role in developing the field of Chinese legal studies in the United States. But it also served to honor his connection to Columbia University. Few scholars in any field have such deep links to a single institution. It was at Columbia that Stanley first began to study Chinese and China, but his links to Columbia had begun earlier. As Stanley himself describes his career, it was his admission first to Columbia College and then to Columbia Law School that opened his eyes and mind to the world—and thus eventually to Chinese law. Stanley's own words are the best way to describe his ties to Columbia:

My links to Columbia go much deeper than the degrees I accumulated. Columbia presented to me a world of ideas that I had not conceived before I entered it, and led to unimagined possibilities. The extent to which Columbia made a difference in my life may be illustrated by the symbolism of my first day as a freshman at Columbia College. I was financially able to attend only because I had won a New York State Regents Scholarship, later supplemented by a Columbia scholarship. On the first day of Freshman Week I took the subway from the North Bronx where I lived with my widowed mother. Since we never went anywhere, we did not own a suitcase and I had to borrow one. Although I was familiar with midtown Manhattan, my knowledge of other parts of New York was dim, and by mistake I took the subway to East 116th Street rather than West 116th Street, and had to walk across Harlem until I found myself standing at the foot of Morningside Heights. I ascended through the park, and a whole new world rose before my eyes—the Columbia campus.

My four years at Columbia College were enormously stimulating, and I was fortunate to become friendly with James Shenton, then a young history instructor who became one of Columbia's best-known and most beloved teachers for decades until he died a few years ago. He taught me a great deal, including the need to question received ideas and all closed systems of belief, and he remained a good friend until his death.

I went on (again on generous scholarships) to the Columbia Law School, where my interest in comparative law was stimulated by courses with Henry DeVries and John Hazard, one of the world's leading authorities on Soviet law. I decided to do graduate work in comparative law, and a chance conversation with Willis Reese changed my life. One day during my last semester at the Law School, he asked me about my future plans. After I told him that I had applied to Harvard and Chicago to study comparative law, he told me about the Huger Jervy Fellowship at Columbia, under which the recipient would study for a year at Columbia before continuing for a second year in Europe.

He decided to give me the fellowship, and so I stayed for another year at Columbia, highlighted by being tutored weekly by Charles Szladits, an enormously scholarly Hungarian émigré who had studied in England and France. I then went to Paris, where I studied French law but became interested in China: It was so different from any Western system about which I knew anything, and it presented questions, among other things, about the relationship between law and economic development.

I returned to New York to work at a large law firm, but left it because of the kindness of another Columbia professor, Walter Gellhorn, who recommended me for a clerkship with then just-appointed U.S. District Court Judge Wilfred Feinberg, who later became Chief Judge of the Second Circuit. In the midst of this clerkship, Willis Reese again changed my life: I learned by

coincidence that Columbia was looking for a young lawyer who would specialize on China, in the belief that some day China and the U.S. would talk again and that lawyers might be useful in their dialogue. Doak Barnett, then teaching on Chinese politics at Columbia, had gotten Willis interested in this idea, and had indicated that funding from the Rockefeller Foundation might be available. After I informed Willis that I was interested, I was summoned for an interview and was chosen to be trained for four years under the auspices of Columbia, the Rockefeller Foundation, and the Foreign Area Fellowship Program of the Ford Foundation. The first two years, 1963-1965, were spent in intensive language study; the first of these years was under the ever-watchful eyes of Loretta Pan, who relentlessly devoted herself to making her students spend all our waking hours studying Chinese. The years 1965-1967 were spent in research in Hong Kong.

B. Stanley Lubman and the Development of Chinese Legal Studies

Professors Shenton, Gellhorn, and Reese must have been pleased with Stanley and with themselves as they watched the development of his career as a pioneering scholar of Chinese law. Stanley has had impact on the Chinese law field in numerous ways. He has taught Chinese law at most leading law schools in the U.S.—including at Boalt Hall, Yale, Harvard, Columbia, and Stanford. While teaching, he has produced scholarship of great breadth, including on topics such as dispute resolution, administrative law, and American policy toward China. In addition to his own scholarship, he has been a major force in encouraging scholarship on Chinese law by others, primarily through organizing a number of important conferences and editing collections of key articles on Chinese law.

Stanley also played a vital role in helping to foster legal exchanges between China and the United States. He was a co-founder and active member of the Committee on Legal Education Exchange with China (CLEEC) throughout its existence. CLEEC brought hundreds of Chinese legal scholars to the United States and remains the most important effort at legal exchange between China and the U.S. Beyond his work with CLEEC, Stanley has also maintained close friendships

with leading Chinese legal scholars for a quarter of a century, helping to guide their research and teaching in a variety of ways.

More recently, Stanley has also played a more direct role in legal reform and development in China. He has served as chief advisor to the Asia Foundation's important programs devoted to assisting China's law reform efforts, especially in the area of administrative law, and has participated in and organized a number of joint conferences and working groups in this field. Finally, Stanley was also one of the first American lawyers to establish a practice related to China. For twenty five years he continued his scholarship and teaching while maintaining his full-time China practice, first on his own and then with major law firms. His work as a lawyer provided him with insight that strengthened his scholarship; it also allowed him to play a major role in educating and advising both government and business about the legal aspects of relationships with China.

The articles included in this volume represent approximately half of those presented on April 15, 2005. They reflect both the goals of the conference and the ways in which the field of Chinese law has developed since the 1960s. Included in this volume are thus important articles by a number of scholars at relatively early stages of their careers. Stanley has also been a pioneer in bringing Chinese and American scholars together, and thus we are delighted that the volume also includes work by leading Chinese scholars Cai Dingjian, He Weifang, and Wang Zhiqiang. Stanley has consistently encouraged empirical work on the Chinese legal system—something he himself began by interviewing refugees in Hong Kong forty years ago—and thus again we are pleased that a number of the contributions to this volume reflect the trend toward increased empirical analysis of recent trends in China.

It is particularly fitting that this collection of articles is being published in the *Columbia Journal of Asian Law*, which has published some of Stanley's most important work. We are grateful to the editors of the *Journal* for their efforts in publishing this volume; to Professor Donald Clarke for his role in organizing and editing the articles; to all of the participants in the conference; and to Mark and Gail Appel and the Asia Foundation, who provided funding for the conference. Finally, thanks are also due to Stanley Lubman himself—for his friendship and mentoring to each of us personally over the years, for his contribution to the development of Chinese legal studies, and for his devotion to Columbia.

