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A proposal to Fudan University for a Program in Legislative Drafting, and a joint program with Boston University to train instructors in legislative drafting

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Boston University

March 20, 1997

**A PROPOSAL TO FUNDAN UNIVERSITY FOR A PROGRAM IN LEGISLATIVE
DRAFTING, AND A JOINT PROGRAM WITH BOSTON UNIVERSITY
TO TRAIN INSTRUCTORS IN LEGISLATIVE DRAFTING**

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This memorandum proposes that Fundan University create courses, a specialization and ultimately a Centre in legislative drafting. That to transform its institutions in line with the Reforms and Open Policy China badly needs competent legislation goes without saying. Most knowledgeable observers will agree that China today has almost no drafters trained in the development of legislative programs likely to bring about transformation effective;y, and not even very many adequately trained even in the technical skills of writing bills.

Fudan University can play a useful role in addressing these needs. It is a leading Chinese university. It already has courses relevant to legislative drafting, for example, in political science and in social science. It is located in Shanghai, obviously as important and central location as exists in China. Most important, a program located in Fudan University will make it, once a few instructors are trained abroad, to have a sustainable program for teaching and research in using legislation as an instrument of governance, and of teaching the skills that legislative drafters need, in Chinese.

**I
OBJECTIVES**

The proposed program has the following objectives:

1. **Course offerings:** To offer courses in
 - (a) legislative theory and methodology;
 - (b) legislative drafting techniques;
 - (c) social science research methods for drafters; and
 - (d) drafting legislation for the banking sector.

Comment: Legislative theory and methodology teaches general theory of how to use legislation to induce desired social, political and economic change. Legislative drafting techniques concerns the craft skills required to write a clear, unambiguous, technically correct draft. Since transformatory legislation affects behavior,m plainly a major part of the research required to draft good legislation subject-matter of the behavioral sciences. D rafters must know at least enough

of social science research methodologies to become competent consumers of social science research.

Since Professor Xia will return to Fudan University with a master's degree in banking law as well as training in legislative drafting, this seems an appropriate specialty to include.

2. Target student populations. These course will be offered to:

(a) Law students at Fudan University;

(b) officials involved in drafting legislation on local and provincial levels, and, if required, even on the national level.

Comment. Legislative drafting teaches student precise, exact expression; a competent legislative drafter can also produce competent contracts, corporate charters, wills, and other complex legal documents. It teaches them a methodology and habits of mind for problem-solving inquiry of wide utility beyond drafting itself. Finally, a fair number of Fudan University students will end up in government employ. Any government lawyer will likely be involved in actual legislative drafting; our graduates should be prepared.

Present officials, too, badly need this training. Fudan University might well offer it to them.

3. The Graduate Degree Program. Fudan University might in time offer a Master's Degree in legislative drafting, perhaps even to the Ph.D. level.

Comment. In time, other universities will find it necessary to teach legislative drafting. Fudan University might easily become a center for training their instructors.

4. A Journal of Legislation.

Comment. China today has no such journal. To advance scholarship in this field, a journal plainly seems needed.

5. A Centre or a Department of Legislative Drafting.

Comment. To accomplish all these objectives requires an appropriate administrative mechanism. A Centre, or perhaps a Department of Legislative Drafting, seems to fit the requirements. The Centre can teach in Chinese,

so that once a core of instructors are trained abroad (see item #6), all further training of staff (both for Fudan and for other Chinese universities) can be conducted in Chinese. By utilizing Fudan University's existing facilities, it would achieve its aims at reasonable cost.

6. Training 2-4 instructors and one Ph.D. Graduate for the program. Fudan University will send from two to four [people to Boston University to train as instructors to teach the suggested courses. It will send one person to obtain a Ph.D. in the subject at B.U.

Comment. For the program to work, it requires a minimum number of instructors. For the past five years, Boston University has been training Chinese, Lao and Mozambican drafters in an annual four-month course. That course now has a formal existence as the Boston University Programme in Legislative Drafting for Democratic Social Change (a four-month program held annually, September-December). That Program constitutes an appropriate way to train instructors for the proposed program -- so far as I know, the only such program in the world.

B.U. also has an M.S./Ph.D. program in legislative drafting. One member of Fudan's staff should study to an advanced level in order to initiate research in legislative drafting theory and methodology and the other subjects at Fudan University. Without continuous research into the problems of legislative drafting in the Chinese circumstance, no significant advances will result.

II THE PROGRAM

This section states the steps required to make the program a reality:

1. Send 2-4 people to BU for four month training program.
2. Send one person to BU for the Ph.D. program.
3. Create an appropriate administrative unit, and offer courses as instructors become available, both to students and to professionals.
4. As soon as enough courses are in place, create a specialty in legislative drafting. Two BU professors to participate for the first semester or two, giving courses and counselling other new instructors.

5. Develop an adequate research and publication program.

**III
BUDGET**

(All sums are approximate)

| | | |
|---|------------|-----------------------------|
| 4 people to BU for four months @ | ██████████ | ██████████ |
| 1 person to take a Ph.D. (2 years | ██████████ | tuition |
| per year plus 24 months subsistence | ██████████ | per month, |
| or ██████████, plus ██████████ travel) | | ██████████ |
| BU professors to Fudan for one semester (@ sums equal to | | present salaries plus fares |
| | | ██████████ |
| Computers for drafting laboratory and for professional | | |
| staff (for Lexis-Nexis and Westlaw services, as well as for | | |
| drafting) | | ██████████ |
| Library materials | | ██████████ |
| Total | | ██████████ |

¹ If fewer people are sent, this figure will be reduced correspondingly.