A Path for Cooperation Between Law Schools in China and the United States

Bryant Walker Smith

Ying Wang

Leighton Carlock

Karman Lucero

Penn State
Journal of Law & International Affairs

VOLUME 11 NO. 2

A PATH FOR COOPERATION BETWEEN LAW SCHOOLS IN CHINA AND THE UNITED STATES

By Bryant Walker Smith, Ying Wang,
Leighton Carlock, & Karman Lucero[*]

TABLE OF CONTENTS

I. INTRODUCTION

In 2020, classrooms around the world went virtual. Beyond its many challenges, this abrupt change also removed many of the geographic limitations on learning. Our international team embraced this opportunity to create a virtual exchange in which law students in the People's Republic of China and the United States interacted closely with each other through the language and substance of law. In this article, we explain the motivation for our program, describe our process, assess our impact, and offer a roadmap for others seeking to foster cross-cultural dialogue.

II. MOTIVATION

The proximate motivation of our collaboration was the COVID-19 pandemic, which inspired efforts around the world aimed

at combating social isolation, extending personal empathy, and learning from the experiences of others. Beyond the pandemic, we recognized the broader value of cross-cultural exchange, especially for students who, because of competing interests or practical limitations such as funding, would otherwise never have such an experience.

Three additional considerations made our effort particularly meaningful. First, the relationship between China and the United States is especially important and uniquely challenging. Second, a comparative study of law is essential to identifying and challenging assumptions about one's own legal system. Third, emerging technologies, including the automated vehicles that we studied in our initial collaboration, present many legal and policy challenges that demand international cooperation.

III. EXISTING RESEARCH

A. The Importance of Cross-Cultural Exchanges

Because a lawyer's world no longer stops at state or national borders,[1] those in the field need to appreciate global differences in "legal cultures" as well as in "professional and ethical standards and practices."[2] Key skills include working in a diverse environment, "knowledge about cultural norms, values, behaviors, and issues; . . . flexibility to adapt to new situations[;] . . . problem-solving skills, resourcefulness, and culturally appropriate people skills."[3] Developing an awareness of the differences among jurisdictions allows

---

[1]   David Cohen, An Analysis of Influences on the Decision to Study Abroad in Law School (2011) (Ph.D. dissertation, Nova Southeastern University) (on file with author).

[2]   Rosa Kim, *Globalizing the Law Curriculum for Twenty-First-Century Lawyering,* 67 J. LEGAL EDUC. 905, 910 (2018); *see generally* Laurel S. Terry, *U.S. Legal Ethics: The Coming of Age of Global and Comparative Perspectives,* 4 WASH. U. GLOB. STUD. L. REV. 463 (2005).

[3]   Carole Silver, *Getting Real About Globalization and Legal Education: Potential and Perspectives for the U.S.*, 24 STAN. L. & POL'Y REV. 457, 460 (2013) (quoting Tracy Rundstrom Williams, *The Reflective Model of Intercultural Competency: A Multidimensional, Qualitative Approach to Study Abroad Assessment*, 18 FRONTIERS: INTERDISC. J. STUD. ABROAD 289, 290 (2009)).

students to "render what was invisible visible."[4] For example, comparative study enables students to notice aspects of legal practices or processes that they had not thought about before as well as reexamine their existing knowledge in new ways. Like real-world experience, exploring different jurisdictions teaches students lessons and ways of learning that otherwise are not taught in the classroom. With new technologies fostering new ways of communication, law students can now interact with their counterparts from around the world with the click of a button.[5] Such cross-cultural exchange can provide students with skills, perspectives, and connections that will help them, their clients, and their profession.[6]

Exposing a law student to multiple jurisdictions can enhance their understanding of their own legal studies.[7] A virtual debate on patent law between law students from the United Kingdom and Egypt resulted in "more informed and sensitive decision-making."[8] Intercultural competency helps to build and maintain relationships with diverse clients, whether international or domestic. These relationships require a specific sensitivity to language and cultural differences,[9] including an understanding of "power and role issues," "diversity in legal systems," "the role of law," and "avenues for avoiding the law's application."[10] Cross-cultural exchanges give students the opportunity to explore these issues, self-reflect, and better prepare themselves for the global environment they will inevitably join.

Trade, travel, and investment among countries necessarily involve transnational legal activity. Globalization has created new opportunities for firms to develop increased "real" wages for people in Western economies by making products at least superficially cheaper

---

[4]   Margaret Y. K. Woo, *Reflections on International Legal Education and Exchanges*, 51 J. LEGAL EDUC. 449, 449 (2001).

[5]   Carole Silver, *Opportunities for Collaboration Among East Asian and US Law Schools*, 3 ASIAN J. L. & SOC'Y 261, 264 (2016).

[6]   *Cf., e.g.*, Woo, *supra* note 4 (describing skills, values, and culture).

[7]   Silver, *supra* note 3, at 459.

[8]   Bronwen Jones et al., *Facebook Debate: Facilitating International, Intercultural Knowledge Exchange and Collaboration in the Field of International Intellectual Property Law*, 53 LAW TCHR. 279, 297 (2019).

[9]   Silver, *supra* note 3, at 461.

[10]   *Id.*

and contributing to more productivity and growth.[11] From 2010 to 2018, the United States gained over 3 million jobs because of foreign direct investment (FDI).[12] In 2020, China was the second largest recipient of FDI and the largest source of FDI in the world.[13]

At the same time, skepticism toward unfettered globalization is manifest. Many countries are, at least to some extent, embracing data nationalism, prioritizing domestic supply chains, acknowledging global trade's significant externalities, recognizing the national-security implications of international power dynamics, questioning immigration, and otherwise withdrawing subtly, or significantly, from the cosmopolitan vision at the heart of twentieth century integration.[14] Brexit, the COVID-19 pandemic, and the abrupt break of world peace in Ukraine may come to be seen as watersheds in the story of globalization—at least until dramatic changes in technology cause even greater disruptions. The uncertainty of the global trajectory only

---

[11]   Fredrik Erixon, *The Economic Benefits of Globalization for Business and Consumers*, EUR. CTR. FOR INT'L POL. ECON. (2018), https://ecipe.org/wp-content/uploads/2018/01/Globalization-paper-final.pdf.

[12]   James C. Cooper & Kathleen Madigan, *Why Profits Are Defying Gravity: More Pricing Power and Better Foreign Earnings Will Fuel the Bottom Line*, BLOOMBERG (Apr. 18, 2005), https://www.bloomberg.com/news/articles/2005-04-17/u-dot-s-dot-why-profits-are-defying-gravity?leadSource=uverify%20wall; *Number of Jobs in the United States Due to Foreign Direct Investment (FDI) from 2007 to 2018 (in 1,000s)*, STATISTA (June 2022), https://www.statista.com/statistics/954662/number-jobs-us-fdi/.

[13]   *China: Foreign Investment*, SANTANDER (Mar. 2023), https://santandertrade.com/en/portal/establish-overseas/china/foreign-investment.

[14]   *See generally* Jennifer Daskal & Justin Sherman, *Data Nationalism on the Rise: The Global Push for State Control of Data*, DATA CATALYST (June 2020), https://datacatalyst.org/wp-content/uploads/2020/06/Data-Nationalism-on-the-Rise.pdf; Bryce Baschuk, *Why Europe Is Fuming over America's Green Subsidies*, WASH. POST (Jan. 19, 2023), https://tinyurl.com/yuc8mdt7; Matthew Studley, *Onshoring Through Automation; Perpetuating Inequality?*, 8 FRONTIERS ROBOTICS & AI 634297 (June 17, 2021), https://doi.org/10.3389/frobt.2021.634297; *The U.S. Dollar as the World's Dominant Reserve Currency*, CONG. RSCH. SERV., IF11707 (2022); Dallas Card et al., *Computational Analysis of 140 Years of US Political Speeches Reveals More Positive but Increasingly Polarized Framing of Immigration*, 119 PNAS 31 (2022); Ewa Genge & Francesco Bartolucci, *Are Attitudes Toward Immigration Changing in Europe? An Analysis Based on Latent Class IRT Models*, 16 ADVANCES DATA ANALYSIS & CLASSIFICATION 235 (2022); Craig Calhoun, *Brexit Is a Mutiny Against the Cosmopolitan Elite*, 33 NEW PERSPS. Q. 50 (2016).

heightens the need for cross-cultural exchange in education generally and legal education specifically.

While we focus on international exchanges, it is important to recognize that even local exchanges can be cross-cultural. Significant socioeconomic diversity is present within countries, regions, and metropolitan areas—and communities within these geographic areas may be metaphorically or even literally distant from each other. In a study at Georgetown University Law Center, law students partnered with underserved, urban high schools in the local community to teach students practical legal skills.[15] The law students were able to directly connect with their local community and thereby develop more "empathetic attitudes" that would also help them to work with diverse clients.[16] Overall, "the result [was] development of cultural competency skills that can be difficult to teach in a traditional law school curriculum."[17] The high school students in turn developed problem-solving skills and a practical understanding of legal concepts.[18] As one noted, "I was able to experience and learn things about the law for the first time in a different way."[19]

Indeed, one of the inspirations for our exchange was similarly local. In early 2020, Bryant's technology law students developed and led highly interactive sessions on privacy law for undergraduates at Allen University, a historically Black university in Columbia, South Carolina.[20] The students from both institutions spoke with rather than at or to each other in a way that facilitated mutual learning. Moreover, when the pandemic forced a last-minute change in modality, the students accomplished this over Zoom, through chats, surveys, and

---

[15] *See generally* Ben Perdue & Amy Wallace, *Preparing Lawyers for Practice: Developing Cultural Competency, Communication Skills, and Content Knowledge Through Street Law Programs*, 70 J. LEGAL EDUC. 95 (2020).

[16] *Id.* at 108.

[17] *Id.* at 123.

[18] Patricia Grande Montana, *Lessons from the Carnegie and Best Practices Reports: A Look at St. John's University School of Law's Street Law Program as a Model for Teaching Professional Skills*, 11 THOMAS M. COOLEY J. PRAC. & CLINICAL L. 97, 125 (2009).

[19] *Id.* at 125 n.98.

[20] *Seminar on the Law of the Newly Possible: Teaching Technology (Spring 2020)*, NEWLYPOSSIBLE, https://newlypossible.org/wiki/Seminar_on_the_Law_of_the_ Newly_Possible (last visited May 1, 2023).

other tools that otherwise would have been unavailable. When many professors were substituting online lectures for in-person discussions, these students demonstrated they could still make the kind of meaningful connections that are essential for any exchange.

B. Key Considerations for Cultural Exchanges Generally

Cultural exchanges can be short or long term, physical or virtual, and synchronous or asynchronous.[21] Existing research on these exchanges generally has identified key aspects, including language, culture, timing, curriculum, and technology.[22] Each aspect requires

---

[21]   Pen pals are the classic physical asynchronous exchange. For examples of past virtual exchanges, *see generally* Bronwen Jones, *Facebook Debate: Facilitating International, Intercultural Knowledge Exchange and Collaboration in the Field of International Intellectual Property Law*, 53 L. TCHR. 279 (2019); Pedro Orta-Castañon, *Social Collaboration Software for Virtual Teams: Case Studies*, 12 INT'L J. INTERACT. DES MANUF. 15 (2018); Remy Magnier-Watanabe et al., *Global Virtual Teams' Education: Experiential Learning in the Classroom*, 25 ON THE HORIZON 267 (2017); Monne Wihlborg et al., *Facilitating Learning Through an International Virtual Collaborative Practice: A Case Study*, 61 NURSE EDUC. TODAY 3 (2017); Lisiane Machado et al., *The Use of Virtual Worlds for Developing Intercultural Competences*, 12 INT'L J. INFO. & COMMC'N TECH. EDUC. 51 (2016); Natalie Victoria Wilmot et al., *Reaching Across Continents: Engaging Students Through Virtual Collaborations*, 1 HIGHER EDUC. PEDAGOGIES 121 (2016); Xiaoqing Gu et al., *Are They Thinking Differently: A Cross Cultural Study on the Relationship of Thinking Styles and Emerging Roles in Computer Supported Collaborative Learning*, 20 EDUC. TECH. & SOC'Y 13 (2016); Patricia G. Boyer, *A Partnership Across the Ocean Between the University of the Western Cape and the University of Missouri-St. Louis: Facilitating a Global Research Programme for Doctoral Students*, 7 LEARNING & TEACHING 58 (2014); Marilyn DeLong et al., *Cultural Exchange: Evaluating an Alternative Model in Higher Education*, 15 J. STUDIES IN INT'L EDUC. 41 (2011); Rémy Magnier-Watanabe et al., *Blended Learning in MBA Education: A Cross-Cultural Experiment*, 26 OPEN LEARNING 253 (2011); Audrey E. Ellenwood & Frederik J. A. Snyders, *Virtual Journey Coupled with Face-to-Face Exchange: Enhancing the Cultural Sensitivity and Competence of Graduate Students*, 21 INTERCULTURAL EDUC. 549 (2010); Sherri M. Lange, *Online Study Tour: China and U.S.: The Feasible Future for All Institutions* (2007) (Ph.D. dissertation, Capella University); Kathleen Swigger et al., *Effects of Culture on Computer-Supported International Collaborations*, 60 INT'L J. HUM.-COMPUT. STUD. 365 (2004); Caroll Iwasiw et al., *Graduate Education in Nursing Leadership Through Distance Technologies: The Canada-Norway Nursing Connection*, 39 J. NURSING EDUC. 81 (2000).

[22]   Iwasiw et al., *supra* note 21; Swigger et al., *supra* note 21; Marilyn DeLong et al., *supra* note 21; Michael Thai et al., *We're All in This Together: The Impact of Facebook Groups on Social Connectedness and Other Outcomes in Higher Education*, 40 INTERNET & HIGHER EDUC. 44 (2019); Rémy Magnier-Watanabe et al., *supra* note 21.

considerable preparation by and coordination between faculty on both sides of the exchange.[23]

Selecting the working language or languages for the exchange is a critical decision, especially when technology restricts nonverbal forms of communication. In general, exchanges either use a single language that participants reasonably understand or use multiple languages with real-time human or machine interpretation.

Many exchanges have used a "pragmatic" approach by selecting the language used or studied by the majority of participating students.[24] Even this pragmatic approach, however, can create barriers between native and non-native speakers.[25] A study of a virtual exchange between Canadian and Norwegian nursing students found the Norwegian participants to be proficient in English, yet uncomfortable communicating in it.[26]

Other efforts have used interpretation or translation rather than a single language.[27] While interpretation can increase delay, awkwardness, and logistical complexity, it can also enable communication that otherwise could not occur, particularly on technical or other specialized topics that are beyond the typical vocabulary of a merely conversational speaker of a non-native language.[28] For example, even for native speakers, comparing different liability rules may be far more difficult than comparing daily routines. While linguistic impediments present their own learning opportunities, they can also discourage engagement and negatively impact the overall experience.[29]

When choosing automated or human translation, it is important to think of the task at hand and the desired outcome.[30] At

---

[23]   Iwasiw et al., *supra* note 21.

[24]   Jones et al., *supra* note 8, at 290.

[25]   Magnier-Watanabe et al., *supra* note 21, at 260.

[26]   Iwasiw et al., *supra* note 21, at 85.

[27]   Jones et al., *supra* note 8, at 290.

[28]   DeLong et al., *supra* note 21 at 49-50.

[29]   *Id.*

[30]   JUAN C. SAGER, LANGUAGE ENGINEERING AND TRANSLATION CONSEQUENCES OF AUTOMATION CH.7 (1993).

least traditionally, an expert human translation offers more nuance in the feeling and intended meaning of the words, while a computer translation is cheaper and faster but may lose the deeper meaning of the words. [31] Machine translation has improved in both performance and availability.[32] As one example, Microsoft Teams recently added real-time translation between participants with various linguistic preferences.[33] At the same time, machine translation can still be outright incorrect. Furthermore, contrasting grammar structures and a lack of cultural context can still produce shortcomings in automated translations.[34]

The Chinese-English pairing often creates this kind of confusion.[35] For example, while English has many tenses that express time and feeling, Chinese does not.[36] A person conversing in Chinese must focus on other parts of the conversation that allow them to piece

---

[31]   *Id.* at 294.
> The translation of the documentation for a major aircraft has been reported as requiring 80,000 hours work of translation, i.e., 39 man years, at a cost of 8 million French francs . . . . Such a time delay would clearly be most damaging if marketing a product would have to wait so long for translated documentation.

[32]   *See generally,* PHILIPP KOEHN, NEURAL MACHINE TRANSLATION 30 (2020); Martin Popel et al., *Transforming Machine Translation: A Deep Learning System Reaches News Translation Quality Comparable to Human Professionals*, 11 NATURE COMMC'NS 10 (2020), https://doi.org/10.1038/s41467-020-18073-9.

[33]   Isobel O'Sullivan, *Microsoft Teams Adds New Live Translation Feature,* TECH (Mar. 15, 2022), https://tech.co/news/microsoft-teams-translation-feature; *Using Microsoft Teams and Microsoft Translator to Host a Multilingual Parent-Teacher Conference*, MICROSOFT, https://www.microsoft.com/en-us/translator/education/microsoft-teams-multilingual-meeting/ (last visited Feb. 4, 2023).

[34]   Xiang'e Zhang, *A Study of Cultural Context in Chinese-English Translation*, 3 REGION–EDUC. RSCH. & REV. 11, 13 (2021).

[35]   Sunny Dublick, *What Makes Chinese Translations So Difficult?* CETRA LANGUAGE SOLS. (Oct. 28, 2015), https://www.cetra.com/blog/what-makes-chinese-translations-so-difficult/; Doris S. F. Yu et al., *Issues and Challenges of Instrument Translation*, 26 W. J. NURSING RSCH. 307 (2004) (noting that this article describes a study in which a nurse translated a questionnaire from Chinese into English and documented that the most difficulties arose from linguistic and cultural differences).

[36]   Yu et al., *supra* note 35, at 314-15.

together the context and when the event took place.[37] Cultural context also plays an important role in Chinese-English language translation. For example, in Chinese "the word 'cousin' has no exact equivalent [because] Chinese distinguishes between older and younger cousins, between male and female cousins, and between cousins on the maternal and on the paternal side."[38]

Cultural barriers are in some ways similar to linguistic barriers. Indeed, both can impede communication. For this reason, it is important to discuss personal and cultural frameworks prior to the start of an exchange. A study that followed an exchange between computer science students at a U.S. and a Turkish university found "students lack[ed] a deep awareness of different cultures. Initial discussions with the two groups indicated that students had several misconceptions about each other's culture."[39] Another study of graduate students in education in China and the United States concluded that "cultural differences could be understood in terms of differences in thinking styles, and that these differences could affect the collaborative process."[40] Cultural understanding can increase comfort, which can increase trust, which can increase communication, which can increase cultural understanding.

Curriculum also provides a structure for communication. Many exchanges utilize problem-based learning that brings both substantive value to the students' studies and opportunities for cross-cultural interaction.[41] Focusing on a project or a problem requires partners to communicate, interact, and learn.[42] It is important to work with faculty from both sides to ensure that these curricular expectations are consistent in a way that provides clear direction for the experience as a whole.[43] For example, one exchange focused on

---

[37]   *Id.* at 313-14.
[38]   Sanjun Sun, Measuring Difficulty in English-Chinese Translation: Towards a General Model of Translation Difficulty 18 (Aug. 2012) (Ph.D. dissertation, Kent State University), https://tinyurl.com/ymt8ef6z.
[39]   Swigger et al., *supra* note 21, at 377.
[40]   Gu et al., *supra* note 21, at 22.
[41]   Magnier-Watanabe et al., *supra* note 21, at 255; DeLong et al., *supra* note 21, at 43, 47-48.
[42]   DeLong et al., *supra* note 21, at 47-48.
[43]   Iwasiw et al., *supra* note 21, at 84-85.

intellectual property law because it provides "an environment in which creativity and invention can flourish," while also encompassing a topic "of increasing international importance."[44]

Timing can be especially vexing for synchronous virtual exchanges.[45] The dilemma of incompatible time zones is familiar to anyone who participates in international meetings, and the academic calendar introduces far more complexity. Different institutions have different academic years that may be subdivided into different units (such as semesters or trimesters) that start and end at different times. Furthermore, class meeting times may be set months in advance and be beyond the control of individual faculty members. For one exchange, "[f]actors such as differences in time and university scheduling hampered the project fluidity."[46] For another, timing was much more complex than originally anticipated due to varying school schedules.[47] Here, as with so many other considerations, the devil is truly in the details.

Selecting a technology platform is especially important for a virtual exchange—and surprisingly tricky.[48] Different technology platforms have distinct characteristics, some of which are more amenable to particular kinds of engagement. For example, a mobile-to-mobile tool such as WhatsApp facilitates ongoing small group messaging, while a video platform such as Zoom allows for larger group discussions in real time. Political and institutional dynamics are important as well. Certain platforms, such as Zoom, might be easier to interact with because they are more widely used but may face risks such as government surveillance.[49] Others, such as the open-source platform Jitsi, likely involve fewer security risks but are less well-known. An ideal engagement likely involves multiple technology platforms as the engagement grows over time.

---

44 Jones et al., *supra* note 8, at 288.
45 Iwasiw et al., *supra* note 21, at 83.
46 DeLong et al., *supra* note 21, at 50.
47 Iwasiw et al., *supra* note 21, at 83.
48 DeLong et al., *supra* note 2, at 54-55.
49 Kari Paul, *"Zoom Is Malware": Why Experts Worry About the Video Conferencing Platform,* THE GUARDIAN (Apr. 2, 2020), https://tinyurl.com/bdhjwrx5.

In particular, some institutions purport to restrict the software tools that can be officially used to those that are institutionally approved, and this approval may require resolution of either serious or silly inconsistencies between the contractual terms acceptable to an institution and the standard terms of use asserted by the software provider. Moreover, an application that is common in one country may be unusual or untrusted, difficult to access, or even illegal in another. The choice of platform, like the choice of language, is not a culturally neutral decision. And, as the next section discusses, choice of platform is far from the only technological consideration.

C. The Special Role of Technology

The COVID-19 pandemic both popularized and villainized modern communication technology. Even before 2020, partially or fully online education was a reality for many students. In fall 2020, 7 million U.S. undergraduates "exclusively took distance education courses" which was an increase of 186% over 2019.[50] 2020's abrupt and massive shift to online education in both China and the United States was far from ideal. Much has been and will be written about the inequities, failures, and inherent limitations of the technologies that nonetheless facilitated this education.[51] Conventional education was and is far from ideal, and the pandemic's exigencies did not necessarily lead to an embrace of virtual education's best practices.

In some ways, virtual exchanges are also a second-best solution to enable educational experiences that simply would not happen otherwise. They can bring meaningful opportunities to individuals and institutions without the resources necessary for in-person interactions.[52] Specifically, the Internet can be used as a means of improving students' education by using a multitude of media outlets to maintain interest. An online platform can save students time and

---

[50] *Distance Learning*, IES: NCES (May 31, 2022), https://nces.ed.gov/fastfacts/display.asp?id=80.

[51] *See, e.g.*, *Remote Learning During COVID-19: Lessons from Today, Principles for Tomorrow*, WORLD BANK, https://tinyurl.com/3n7dn9wb (last visited Mar. 26, 2023).

[52] Pedro Orta-Castañon et al., *supra* note 21, at 17.

money while facilitating robust communication.[53] Indeed, making connections among people who do not, will not, or otherwise would not travel internationally may be especially important.[54] One study confirmed the benefits of this greater accessibility.[55] Another study even concluded that despite some technical difficulties in the beginning, a virtual doctoral exchange "proved in practice to be as good an experience as it would have been if all students were in the same room."[56]

Achieving this positive experience does require anticipating and managing the inevitable limitations and other challenges of technology.[57] Availability of technology, maintaining "two-way interactions" between student and teacher, and leveraging ministries of education to effectively work with schools are all important aspects to creating an effective remote learning experience.[58] Technical issues can be minor (such as an inability to switch platform hosting rights from one institution to another) or major (such as a complete malfunction of equipment).[59] Other challenges include: "1. gaining trust[,] 2. engaging in social communication[,] 3. understanding communication patterns of other team members and applying that understanding[,] 4. [a]voiding misattribution[,] 5. establishing shared interpretations of language[, and] . . . 7. communicating clear boundaries . . . ."[60] Electronic communication is more likely than in-person communication to result in misunderstandings, which can hinder productivity and undermine the goals of the project.[61] At the same

---

[53]   Ma Yan Jie, 互相网+时代法学本科教育改革探究》马艳婕[*Discussion on Education Reform of Law Undergraduates in the Internet Plus Era*], 1 SCI. & TECH. 27 (2019).

[54]   Remy Magnier-Watanabe et al., *supra* note 21, at 275.

[55]   Monne Wihlborg et al., *supra* note 21, at 6-7.

[56]   Patricia G. Boyer et al., *supra* note 21, at 67.

[57]   Magnier-Watanabe et al., *supra* note 21.

[58]   WORLD BANK, *supra* note 51.

[59]   Wihlborg et al., *supra* note 21, at 6; Magnier-Watanabe et al., *supra* note 21, at 274, 283.

[60]   PAM ESTES BREWER, INTERNATIONAL VIRTUAL TEAMS: ENGINEERING GLOBAL SUCCESS 22 (2015).

[61]   Magnier-Watanabe et al., *supra* note 21, at 269.

time, learning to navigate these technical and interpersonal dynamics is also an important outcome.

Even more fundamentally, technology can increase accessibility only to the extent that the technology is accessible. Lower-income regions around the world (including rural parts of the United States[62] and China[63]) may lack an internet connection or the reliable high-speed internet necessary for videoconferencing. In 2020, 91% of the U.S. population and 70% of the Chinese population used the Internet.[64] From 2016 to 2020, China's "internet user penetration" grew from 69.1% to 79.8% in urban areas and from 33.1% to 55.9% in rural areas.[65]

D. The Special Case of U.S.-China Exchanges

The United States and China are countries marked by superlatives. They have the largest economies in the world. China exports more to the United States than to any other country, and the United States imports more from China than from any other country.[66] English and Mandarin are the most spoken languages in the world.[67] The direct annual greenhouse gas emissions of the United States and China are each far higher than any other country, and each spends more on their militaries than any other country.[68] They have roughly

---

[62]   Monica Anderson, *About a Quarter of Rural Americans Say Access to High-Speed Internet Is a Major Problem,* PEW RSCH. CTR. (Sept. 10, 2018), https://tinyurl.com/376a9f3j.

[63]   David McConnell, *E-learning in Chinese Higher Education: The View from Inside*, 75 HIGHER EDUC. 1031, 1040 (2018).

[64]   *Individuals Using the Internet,* WORLD BANK, https://data.worldbank.org /indicator/IT.NET.USER.ZS?locations=US (last visited Feb. 4, 2023).

[65]   Sara Lebow, *For the First Time, More than Half of those Living in Rural China Have Internet Access,* INSIDER INTEL (Mar. 19, 2021), https://tinyurl.com/zmcbrnts.

[66]   *Top Trading Partners—May 2022*, U.S. CENSUS, https://www.census. gov/foreign-trade/statistics/highlights/top/top2205yr.html. (last visited May 1, 2023).

[67]   M. Szmigiera, *The Most Spoken Languages Worldwide in 2022*, STATISTA (July 27, 2022), https://www.statista.com/statistics/266808/the-most-spoken-languages-worldwide/.

[68]   *Global Greenhouse Gas Emissions Data*, U.S. EPA (Feb. 25, 2022), https://www.epa.gov/ghgemissions/global-greenhouse-gas-emissions-data; Defense Budget by Country (2023), GLOBALFIREPOWER.COM, https://www.

the same land area.[69] China has about as many people as India, and the United States is third (albeit distantly).[70] The United States and China have, respectively, about 19 million and 33 million college students (making China's higher education system the largest in the world),[71] 20,000 and 317,000 students studying in each other's country, and 1.3 million and 500,000 lawyers.[72]

These two countries play leading—but not necessarily concordant—roles in various formal and informal global bodies, alliances, and movements.[73] They are each permanent members of the UN Security Council.[74] The U.S and Chinese governments express strong strategic and other concerns about each other.[75] In both

---

globalfirepower.com/defense-spending-budget.php (last visited Feb. 5, 2023); *see also U.S. Defense Spending Compared to Other Countries*, PETER G. PETERSON FOUND. (May 11, 2022), https://www.pgpf.org/chart-archive/0053_defense-comparison.

[69]   *Land Area (sq. km—China*, WORLD BANK, https://data.worldbank. org/indicator/AG.LND.TOTL.K2?locations=CN&most_recent_value_desc=true (last visited Feb. 4, 2023).

[70]   *Population, Total*, WORLD BANK, https://data.worldbank.org/ indicator/SP.POP.TOTL?most_recent_value_desc=true (last visited Feb. 4, 2023).

[71]   Zou Shuo, *China's Higher Education System Is World's Largest, Officials Say*, CHINA   DAILY   (March   12,   2020),   https://www.chinadaily.com. cn/a/202012/03/WS5fc86ab2a31024ad0ba9999e.html.

[72]   Guodong Du, *Rocketing Up: Chinese Lawyers Increasing 148% in Ten Years*, CHINA   JUST.   OBSERVER   (Sept.   27,   2020),   https://www.chinajustice observer.com/a/rocketing-up-chinese-lawyers-increasing-148-percent-in-ten-years. China had only 250,000 lawyers in 2013.

[73]   U.S. HEGEMONY AND INTERNATIONAL ORGANIZATIONS: THE UNITED STATES AND MULTILATERAL INSTITUTIONS (Rosemary Foot et al., 2003); Dave Lawler, *Mapping China's Growing Global Influence*, AXIOS (June 17, 2021), https://www.axios.com/2021/06/17/china-global-influence-map-us-powerful.

[74]   *Current Members*, U.N. SEC. COUNCIL, https://www.un.org/ securitycouncil/content/current-members (last visited Feb. 4, 2023).

[75]   For example: The U.S. government describes China as a strategic competitor. *U.S. Relations with China*, U.S. DEP'T STATE (May 12, 2021), https://www.state.gov/u-s-relations-with-china/. The North Atlantic Treaty Organization (NATO) is concerned that China's "ambitions and its 'coercive policies' challenge Western bloc's 'interests, security and values.'" NATO OTAN, *NATO 2022 Strategic Concept* 5 (June 20, 2022) https://www.nato.int/nato _static_fl2014/assets/pdf/2022/6/pdf/290622-strategic-concept. The Chinese government along with its Russian counterpart "remain highly vigilant about the negative impact of the United States' Indo-Pacific strategy on peace and stability in the region." Joint Statement, President of Russia, Joint Statement of the Russian

countries, this complex relationship is a major issue that attracts both political and popular attention.

This attention brings risks. The Trump administration's "China Initiative" against economic espionage caused a chilling effect, both in commercial and academic domains.[76] The pandemic saw an appalling increase in anti-Chinese and, more generally, anti-Asian (and anti-Asian-American) rhetoric and hate crimes in the United States.[77] In one prominent 2021 mass shooting, six of the eight victims were women of Asian descent.[78] The pandemic has also seen a rise of xenophobia in China as foreigners, particularly those with darker complexions,[79] have faced discrimination, harassment, and evictions.[80]

China's "Great Firewall" restricts access to many websites and apps that are common in the West, including social media platforms and communication tools, whereas Western internet users can generally access equivalent Chinese services.[81] While the Trump

---

Federation and the People's Republic of China on the International Relations Entering a New Era and the Global Sustainable Development (Feb. 4, 2022) (on file with the Russian Presidential Executive Office).

[76] Margaret K. Lewis, *Criminalizing China*, 111 J. CRIM. L. & CRIMINOLOGY 145, 161-89 (2021), https://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?article=7693&context=jclc; *see also* Bryant Walker Smith & Bryce Pilz, *Protecting Individuals, Institutions, and Innovation in the US Government's Crackdown on "Foreign Influence"*, 84 U. PITTSBURGH L. REV. (forthcoming).

[77] *Anti-Asian Hate Crime Events During the COVID-19 Pandemic*, RSCH. CTR., CAL. JUST. INFO. SERV. DIV., CALIF. DEP'T JUST., https://oag.ca.gov/system/files/media/anti-asian-hc-report.pdf (last visited Feb. 4, 2023).

[78] Richard Fausset et al., *8 Dead in Atlanta Spa Shootings, with Fears of Anti-Asian Bias*, N.Y. TIMES (March 17, 2021), https://www.nytimes.com/live/2021/03/17/us/shooting-atlanta-acworth.

[79] Yaqui Wang, *From Covid to Blackface on TV, China's Racism Problems Runs Deep*, HUM. RTS. WATCH (Feb. 18, 2021), https://www.hrw.org/news/2021/02/18/covid-blackface-tv-chinas-racism-problem-runs-deep.

[80] Vivian Wang & Amy Qin, *As Coronavirus Fades in China, Nationalism and Xenophobia Flare,* N.Y. TIMES (Apr. 16, 2020), https://www.nytimes.com/2020/04/16/world/asia/coronavirus-china-nationalism.html.

[81] Beina Xu & Eleanor Albert, *Media Censorship in China*, COUNCIL ON FOREIGN RELS. (Sept. 25, 2014) https://www.files.ethz.ch/isn/177388/media%20censorship%20in%20china.pdf; Lotus Ruan et al., *One App, Two Systems: How WeChat Uses One Censorship Policy in China and Another Internationally*, THE CITIZEN

administration sought to ban the Chinese-owned WeChat and TikTok,[82] the bans were blocked by a federal court before they went into effect[83] and ultimately rescinded by the Biden administration.[84] There are caveats on each side; some Western technology companies offer China-specific services,[85] and some Chinese technology companies limit certain functions in the international versions of their services.[86]

Successful academic discourse may require a proactive understanding not only of the availability of internet services but also of tolerance for internet speech. In a responsible academic exchange, organizers and participants must consider the risks that differences in the regulation of speech in the international online environment may present to them and others. Regardless of where a speaker is located, topics or remarks that are constitutionally protected in the United States might be deemed illegal or otherwise unacceptable, including after the fact, in China. Serious consequences, including censure, administrative sanctions, and criminal penalties, can apply broadly. These consequences are not necessarily limited to Chinese nationals.[87]

LAB (Nov. 30, 2016), https://citizenlab.ca/2016/11/wechat-china-censorship-one-app-two-systems/.

   [82]   Securing the Information and Communications Technology and Services Supply Chain, 84 Fed. Reg. 22,689 (May 15, 2019).

   [83]   U.S. WeChat Users All. v. Trump, 488 F. Supp. 3d 912 (N.D. Cal. 2020), *appeal dismissed sub nom*; U.S. WeChat Users All. v. Trump, 2021 WL 4692706 (9th Cir. 2021).

   [84]   Exec. Order No. 14034, 86 F.R. 31423 (2021).

   [85]   *See, e.g.*, Rita Liao, *The Long Haul of Microsoft's China Localization*, TECHCRUNCH (Dec. 20, 2021), https://techcrunch.com/2021/12/20/the-long-haul-of-microsofts-china-localization/; *see also, e.g.*, *About Microsoft's Presence in China*, MICROSOFT, https://news.microsoft.com/about-microsofts-presence-in-china/ (last visited Feb. 4, 2023).

   [86]   *WeChat v. Weixin: For China Marketing You Need an Official Weixin Account*, CHOZAN, https://chozan.co/wechat-vs-weixin/ (last visited Feb. 4, 2023); Iris Deng, *Tencent Draws a Line Between WeChat and Weixin, Telling Users to Choose as China's Strict New Data Laws Come into Effect*, S. CHINA MORNING POST (Sept. 7, 2021), https://tinyurl.com/yerm369s.

   [87]   *See generally* Wǎng Luò Xìn Xī Nèi Róng Shēng Tài Zhì Lǐ Guī Dìng (网络信息内容生态治理规定) [Provisions on the Governance of the Ecosystem of Online Information Content of 2020] (promulgated by the Cyberspace

There are also significant differences between Chinese and American legal education.[88] First, both the contemporary legal profession and contemporary legal education trace their lineage back centuries in the United States but only decades in China.[89] The U.S. legal education system has accordingly had more time to develop its "internal" and "external" structural systems.[90] Second, law school in the United States is a graduate program that builds on an undergraduate education, whereas law school in China can be an undergraduate or graduate program. While law schools in both countries require many of the same core classes, such as criminal law and civil procedure, Chinese programs also require English, physical education, and various political science courses.[91] Third, U.S. legal education focuses more on training future "law practitioners," whereas Chinese legal education focuses more on training future "law professors."[92] Finally, in part because China is largely a civil law jurisdiction and the United States is largely a collection of common-law jurisdictions, classroom pedagogy can be vastly different.[93] Discussions of civil law are more likely to involve "only one correct answer to a specific question."[94] These differences in structure, history,

---

Administration of China, Dec. 12, 2019, effective Mar. 1, 2020, at arts. 6, 7, http://www.cac.gov.cn/2019-12/20/c_1578375159509309.htm (China); Hù Lián Wǎng Xìn Xī Fú Wù Guǎn Lǐ Bàn Fǎ (互联网信息服务管理办法) [Administration of Internet Information Service Procedures of 2000] (promulgated by State Council of the People's Republic of China, 2000, rev'd by the State Council, 2011), art. 15, http://www.gov.cn/zhengce/2020-12/26/content_5574367.htm (China); Zhengxin Huo & Man Yip, *Extraterritoriality of Chinese Law: Myths, Realities, and the Future*, CHINESE J. COMP. L. (2021); WILLIAM A. FARRIS, STATE PROSECUTIONS OF SPEECH IN THE PEOPLE'S REPUBLIC OF CHINA Preface (2022). Additional sources have been redacted on account of the sensitivity of this topic.

[88] *See generally* Huang Ting, *A Comparison of Chinese and American Clinical Education at Law School*, 6 J. OF INNOVATION & ENTER. EDUC. 140 (2014) 《中美高教法律诊所教育的比较研究》黄婷.

[89] *See generally* Jie Gao, *Comparison Between Chinese and American Lawyers: Educated and Admitted to Practice Differently in Difference Legal System*, 29 PENN ST. INT'L L. REV. 129 (2010). In China, law schools in universities were reopened beginning in 1979, and the first law firm was formed in Shanghai in 1988. *Id.* at 130, 131.

[90] Ting, *supra* note 88.

[91] *Id.* at 137-38.

[92] Gao, *supra* note 89, at 137.

[93] *Id.* at 141.

[94] *Id.* at 142.

and style of learning are all important aspects to consider when creating an exchange between students in China and the United States.

While exchanges should generally embrace, rather than erase, academic and cultural differences, anticipating some key differences might help avoid unproductive misunderstandings. For example, comments in a professional setting about another's physical appearance may be more socially acceptable in China than in the United States—and, if favorable, may be intended more as idle compliments than as expressions of particular interest.

As we discuss more below, many of these dynamics are necessarily present in the design and execution of an academic exchange between students in the United States and China. Student interest may in part reflect the importance of the relationship between these two countries. The use of certain communication tools might not be possible or practical. A particular topic might be inadvisable because passions surrounding it might undermine meaningful dialogue, students might not feel comfortable speaking about it, or participants could face serious consequences for engaging on it. We discuss these issues in connection with our specific exchange.

IV. OUR EXCHANGE

We conceived our idea for a virtual exchange in early 2020 as the pandemic struck in full force, and we held our first set of sessions in early 2021. This point deserves emphasis: our process of conception, preparation, execution, and reflection required a full year. This section discusses these four phases.

A. Conception

Our original vision was to develop the next generation of transnational lawyers through exercises, discussions, and other substantive interactions between law students in China and the United States. As a corollary, we also sought to facilitate similarly constructive relationships between legal scholars in the two countries. We identified this as something positive, constructive, and important that we could do at a time that was otherwise rather discouraging.

We tested this vision by identifying a range of potential outcomes. Our ideal outcome was a program that enables professors and students to make both short-term and long-term connections for a variety of purposes, including performing comparative research, conducting long course projects, engaging in short class exercises, developing language skills, improving cultural competency, and building meaningful connections. An acceptable outcome was a more limited experience that results in positive interactions and connections between students that otherwise would not have occurred. A tolerable outcome was an initiative that we are unable to implement but from which we can draw and share important lessons about legal education and transnational cooperation. An unacceptable outcome was a loss of trust between legal scholars in China and the United States. An intolerable outcome was personal or professional harm to any participant.

We also agreed to document every step of our process—including goals, opportunities, challenges, sensitivities, assumptions, and surprises—so that, regardless of the outcome, we would be able to share our lessons learned with others.

From the beginning, we understood that trust would be essential to the success of our effort, that misunderstandings would be a particular risk, and that personal relationships would matter for both. For these reasons, we undertook to start carefully, proceed deliberately, and prioritize honesty. We also emphasized discrete, concrete, and structured engagements that would be credible but not so formal that they might require particular approvals or otherwise invite outside scrutiny.

As we began to move into the details, we used a framing of "who, what, where, when, why, and how." This in turn allowed us to create a joint proposal that we could share with our colleagues, with experts, and ultimately with our students. We discuss each of these aspects below.

1. Who

Our team emerged largely through existing relationships that deepened throughout the process. Bryant Walker Smith first floated

the idea of "virtual pen pals" during casual conversation at a December 2019 conference in Beijing, and Ying Wang was particularly receptive to this idea specifically and to student collaborations more generally. When U.S. universities shifted dramatically to online education in March 2020, Bryant realized that Chinese universities were already two months ahead of the rest of the world in confronting the challenges of the pandemic and thought that he and his students might learn from their experience and benefit from their example. However, the chaos of the early pandemic precluded any swift collaboration.

The idea matured over the summer of 2020. Bryant and Ying began informally discussing possibilities. The professional development office at the University of South Carolina School of Law identified Leighton Carlock as a Mandarin speaker who, as a joint law and business graduate student, might be interested in assisting. She was. Bryant asked her to run with the idea, and she did. He also reached out to others with relevant expertise, including the university's research office, which to his surprise explained that approval from the university's institutional review board was not required.

A particularly helpful connection was one with the Yale Law School's Paul Tsai China Law Center. The expert contributions of Karman Lucero and his colleague Rob Williams were essential in developing a careful engagement strategy that could be implemented with reasonable confidence. Karman also agreed to help with the planning and execution.

As our team came together, we decided to design our initial exchange for a small number of volunteer graduate students at the Renmin University of China Law School, the University of South Carolina School of Law, and Yale Law School—with an equal number of China-based and U.S.-based participants.

2. What

We decided that our initial undertaking should be extracurricular. In order to determine substance and structure, we initially created what we called two "menus." The first menu included various legal topics that might be both appealing and accessible to students and professors in both countries. The second menu included

various activities such as engaging in a group discussion, analyzing a hypothetical with a partner, and playing a role in a legal simulation. As our planning proceeded, we decided to focus on automated driving, as this was an exciting topic to which Bryant and Ying could contribute significant expertise. It also lent itself to a wide variety of activities, including discussions of specific legal questions in partners, teams, and larger groups. Focusing on a particular "case study" or example such as automated driving served to anchor the discussion while allowing for students to explore a diverse array of questions and examples.

3. Where

We understood from our research that our choice of a communications platform or platforms would be especially important. Zoom was available in China and the United States, was especially well suited for icebreaker activities in both small and large groups, and was compatible with third-party translation tools, although these were not ultimately supported by the University of South Carolina. WeChat was popular in China, was not particularly popular but was at least available in the United States (and, in our view, was likely to remain available in some form despite the Trump administration's effort to ban it), and offered built-in translation support. We assumed that both Zoom and WeChat were subject to some form of monitoring.[95]

4. When

Our sessions had to fit in two different sweet spots. The first involved largely incompatible institutional calendars; after accounting for exams and instructional breaks, March emerged as the only viable month. The second involved the 12-hour time difference between China and the east coast of the United States; we scheduled one set of exchanges for 7:30 am eastern / 7:30 pm China time and another set of exchanges for 7:30 pm eastern / 7:30 am China time. For one set of exchanges, we also made use of the weekend to avoid class conflicts.

---

[95]   We shared this consideration with the U.S. participants in case they were unaware. We did not explicitly mention this to the Chinese participants.

5. Why

We refined our goals to focus on developing relationships between law students in China and the United States through the language of law. To this end, we sought to explore similarities and differences between legal frameworks in the two countries.

6. How

We developed a written proposal that described the five elements above. For the Chinese side, carefully explaining the "what" was a particular priority. This required describing how the sessions would take place and identifying specific questions that would guide discussions during each session (which we discuss more below). For the sake of clarity, we carefully and cooperatively translated this document into Chinese.

V. PREPARATION

Our vision involved substantial preparation, including communicating regularly among the organizers via Zoom, WeChat, and email; recruiting, selecting, and matching students; and developing and translating materials for the sessions. Throughout this process, our written proposal helped us to stay focused, to avoid unintentional deviations from our vision, and to explicitly acknowledge when and how we adjusted that vision. This discipline as well as our regular meetings were important for maintaining the trust we had developed among all the organizers.

Each side separately recruited participants. On the U.S. side, we asked applicants from the University of South Carolina and Yale to commit to three 90-minute sessions, to share their resume, and to briefly describe their interest in a virtual exchange program, what they hoped to take from it, and what they could bring to it. We intentionally set a short deadline and promised a quick turnaround.

In selecting among the applications, we sought to assemble a diverse group of students who would reflect and represent our schools well. On the U.S. side, weighing prior international experience

(including in China itself) was particularly challenging. On one hand, such experience suggested strong commitment to and comfort with international exchange. On the other hand, we were especially interested in creating opportunities for and fostering interactions among students who had not and otherwise would not have them. Accordingly, we also included students who had never left the country or even the southeastern United States; most had never been to Asia. On the Chinese side, none of the student participants had ever been to the United States.

Our desire to create small-group sessions with an equal number of participants from the United States and China limited our numerical flexibility. This was compounded by initial concerns, which were quickly resolved, that we would not receive enough interest from one side or the other. To manage these dynamics, we also created a waiting list, invited those on the list to participate in some of our pre-exchange activities, and privately endeavored to ultimately include those who through that participation demonstrated strong continuing interest. We ultimately involved twelve students from the United States and twelve students from China by creating two (mostly) separate groups of twelve students total.

All twenty-four accepted students filled out an additional survey as an initial icebreaker. They shared the meaning or origin of their name, something unique about their place of origin, a picture from their camera roll, and a legal question of interest related to our topic of automated driving. (In retrospect, we should have also asked students to record the pronunciation of their names.) We assembled and distributed these thoughtful and, in some cases, touching answers in advance of our sessions.[96]

We considered distributing substantive materials prior to the sessions but ultimately decided against this for two reasons. First, we did not want to deter or discourage students with additional work.

---

[96]   For the cover of this packet, we switched from an early design featuring maps of the two countries to a final design featuring photos of the three law school buildings.

Second, we wanted to avoid unduly framing or otherwise shaping students' views of our substantive topic.

We did hold two preparatory Zoom sessions—one with only the Chinese students and another with only the U.S. students.

The purpose of the Chinese session was to help students become more comfortable and confident speaking (and speaking up) in English, which we had selected as our primary working language for the actual exchange sessions. Leighton, who speaks Mandarin and had taught English as a second language in China, led this two-hour optional session. The students practiced their English language skills through personal introductions and informal conversations. We debated whether to introduce our substantive legal topic in this session. On the one hand, initial familiarity with key concepts and terms could help the students in subsequent discussions. On the other hand, we did not want to unduly frame their perspectives prior to the actual exchange.

The purpose of the U.S. session was to provide students with foundational legal and cultural context on China, to orient them regarding sensitive dynamics we had considered in our planning, and to give them an opportunity to ask questions that might not be directly relevant during the actual exchange. Bryant and Leighton introduced the goals of the exchange, Karman gave a brief presentation on Chinese legal history, and then all the three U.S. organizers moderated a discussion based on student questions for more than an hour afterward. In our remarks and our discussion, we sought to prepare our students to engage with their counterparts thoughtfully, respectfully, and productively. To this end, we specifically explained that the U.S. students might have questions that their counterparts could not answer and that this dynamic might require particular sensitivity.

Here, we should make two important points. First, highlighting these challenges in advance without being explicitly prescriptive was an attempt by the U.S. organizers to navigate a difference in how two of the U.S.-based China experts we consulted viewed the balance of risks and opportunities. One believed that this balance counseled for a more managed exchange with less potential friction, and the other

believed that this balance counseled for a less managed exchange with more potential friction. Second, these concerns came from the U.S. organizers rather than from our Chinese colleague. All of the organizers agreed that the exchange should be legally grounded and academically oriented. Within this scope, Ying explicitly and consistently embraced an open exploration of legal issues and never sought to limit interactions, including in planning, in preparatory discussions with the Chinese participants, and during the exchange itself.

During these introductions, we also tried to initiate structures for student interaction outside of our formal exchange sessions. This was especially challenging. As we expected, the Chinese relied principally on WeChat; most did not use email regularly and did not have reliable access to social media apps common in the United States. Conversely, most of the U.S. students did not have WeChat (although a few did), and we recognized there might be concerns about using it. Most of the U.S. students actually did decide to download WeChat, but the organizers had not realized that signing up had become more difficult since we had first done so years ago. While WeChat allowed some students to register without problem, it required others to have an existing China-based user effectively vouch for them. In addition, and possibly related, some students initially or subsequently encountered other access difficulties. As a result, some students were communicating on WeChat even before their first exchange session, while others were still struggling to use it after their second.

VI. EXECUTION

Our first set of exchange sessions began with a warm welcome followed by a short introductory presentation. We superimposed some slides plus impromptu freehand text (as with a physical blackboard) over Bryant's video so that the session looked and felt more like a discussion. The organizers introduced terms such as "automated vehicle (AV)" and "automated vehicles (AVs)" and encouraged participants to ask at any point about any uncertain terms or concepts.

We explained the Chatham House Rule,[97] whereby participants could share what had been discussed only without attribution. We also introduced our Carolina-Renmin House Rules:[98]

1.   Embrace the uncertain.

2.   Acknowledge the different.

3.   Celebrate the awkward.

Key phrases we used to illustrate these rules include "What about . . . ?," "I'm confused . . . ," "I agree that . . . ," "I disagree that . . . ," "Can you explain . . . ?," and "For example . . . ?"

Moving quickly into an icebreaker, we paired the students (one from China and the other from the U.S.), sent them into separate breakout rooms, and asked them to get to know each other. Here the introductory packets we assembled were useful for starting conversations. When all the students returned to the main Zoom room, they introduced their partners to the whole group, which they all did in a fun and lively way. (The organizers also introduced each other.) These introductions also included initial questions about automated driving, which led into our substantive discussion.

In this discussion, we attempted to combine some foundational material with interactive activities such as polling in a way that could lead to more free-flowing discussion. For example, one of the key questions that we presented was, "Who or what drives an automated vehicle?" Students had a wide variety of answers (as does the law), including a human user, some other human, the vehicle itself, the hardware and software that make up an automated driving system, the company that develops or deploys the vehicle, or no one at all. The first session formally ended with a short presentation by Ying on regulation of automated driving in China.

---

[97] *Chatham House Rule,* CHATHAM HOUSE, https://www.chatham house.org/about-us/chatham-house-rule (last visited Feb. 4, 2023).
[98] *Carolina House Rules,* NEWLYPOSSIBLE, https://newlypossible. org/wiki/Carolina_House_Rules (last visited Feb. 4, 2023).

Much to our surprise, both of the initial sessions continued informally for two hours after the official end time. Every student from both groups stayed, even when we emphasized that there was absolutely no expectation that they do so. The conversations were lively. The second of the two groups, for example, spontaneously turned to questions of enforcement; students debated whether automated vehicles should be allowed to speed and whether governments should be able to ban human driving. These discussions were so compelling that we decided to specifically raise issues of enforcement with the other group in their second session.

We began those second sessions with a short presentation by Bryant on automated driving law in the United States and then a longer case study to explore notions of legal responsibility. Bryant told the story of a fatal crash in Arizona through five different lenses (infrastructure, the pedestrian who was killed, the test vehicle, the safety driver in that vehicle, and the company testing that vehicle) and then asked students to identify the parties they considered most and least responsible. [99] Students had dramatically different perspectives: some students attributed the most fault to parties to which other students attributed the least fault. Strikingly, these differences did not correspond to country.

Using this discussion as a foundation, we then split the students into groups of four that maintained the original pairs from the first session. We decided to use larger groups for substantive discussion to ensure that those discussions could overcome linguistic or other obstacles that might be more pronounced in pairs. We tasked the groups with reintroducing themselves with their names, their dream jobs in the law, and their dream jobs outside of the law and then discussing both civil and criminal law as applied to the Arizona case study. In particular, we asked students to consider who should be sued (and for what) and who should be prosecuted (and for what). [100] When

---

[99]   *See generally "I'm the Operator": The Aftermath of a Self-Driving Tragedy*, WIRED (Mar. 8, 2022), https://www.wired.com/story/uber-self-driving-car-fatal-crash/; Bryant Walker Smith, *Uber's Fatal Crash*, CIS: CTR. FOR INTERNET & SOC'Y (Mar. 19, 2018), https://cyberlaw.stanford.edu/blog/2018/03/ubers-fatal-crash.

[100]   For those groups that wanted or needed them, we also provided additional prompts related to the regulation of automated driving, including whether

the entire group came back together, we asked students to summarize their breakout discussions. Both U.S. and Chinese students took the lead on these summaries. Even though every group had received the same prompt, their conversations and conclusions were all different. In addition, when we again asked students to identify the parties they considered most and least responsible in the Arizona crash, it was clear that some students had changed their views as a result of the breakout discussions.

From this point, the whole-group discussions evolved naturally within broad structures offered by the organizers. Topics varied depending on the group and included enforcement, crash hypotheticals (such as if an AV is rear-ended after braking for a "phantom" pedestrian), AV regulation, the meaning of ethics, and data protection (including what data students would be willing and unwilling to share with whom). These sessions also continued long past their official stop times.

Toward the end of the official sessions, we did pause the substantive discussions for three purposes. The first was to take some group Zoom photos. The second was to consider next steps, including how we might stay in touch and what we might do next; here we tried to empower the students themselves to propose and take these steps. The third was to solicit feedback both in English and in Chinese (to get as much information as possible).

A. Student Reflection

We solicited feedback from participants during the sessions as well as through post-exchange surveys. We asked U.S. students to complete both a very short survey and then a much longer survey, and participants who completed both received a letter of commendation in English and a certificate of commendation in Chinese (as did all of the

---

AVs should require approval by a regulator (and if so, how this would work); whether AVs should have to pass a driving test (and if so, what this test would look like); how "good" AV companies could be distinguished from "bad" AV companies; and how "bad" AV companies might be deterred.

Chinese participants). In addition, the organizers met separately after each session to reflect.

Overall impressions of our exchange were positive without exception, and there was strong interest in continuing, lengthening, and expanding this kind of program. Students mostly enjoyed brainstorming as a whole class, breaking out into groups, meeting new people, connecting with partners, and discovering similar interests. Particular difficulties included overcoming linguistic and cultural barriers, diving into the substance of our topic without preparatory material, and not meeting their counterparts prior to the first session. One student's summary was characteristic: "The experience really provided for both an academic and cultural exchange. It exceeded my expectations. I wouldn't change any of the features of the program. I really enjoyed meeting both 1 on 1 and in groups with our counterparts at RUC. The only thing is that I wish we could have more meetings!"

Students especially enjoyed the breakout room sessions with other students. One student "loved having the breakout groups to be able to discuss and develop relationships with my peers." Another student identified their "favorite memory" from the exchange as the "one-on-one session with" their foreign counterpart: "we had so much in common, so it was really fun to get to know her." Yet another "really enjoyed this experience," noting how they connected with their partners and were surprised to find similar interests. And another related "being in a 4-person small group setting discussing autonomous vehicles and whether we would feel comfortable riding in them as they are currently. Both [my partner] and I said we would while [the other pair] said they wouldn't. What made these responses so interesting was the fact that both [my foreign partner] and I are military veterans, and we made a joke that we were more prone to 'taking risks.'"

Students also appreciated having a form of social media to communicate more regularly and less formally. The U.S. students who used WeChat were happy to connect with their counterparts (with several engaging in lengthy and ongoing chats), while those who could not use it were frustrated that they could not engage in these

interactions.[101] One student commented that "WeChat is VERY useful . . . I am talking with [two of my partners] regularly. I want to eventually visit them. We are not talking about anything within the law, just building a friendship." Another related that "the relationships I formed (specifically with [two partners]) have been really deep and meaningful. I am still in contact with them and we are talking multiple times per week. We are learning about each other's cultures as we send each other photos of our pets, meals and apartments." Another student "couldn't get [WeChat] to work at first, but I am going to download it and try again." Yet another did not download WeChat and therefore "did not communicate outside of the sessions. I would like a way to communicate that is not WeChat, but it seems our options are understandably limited."

Because we decided to hold the sessions in English, the U.S. students had an obvious advantage. One U.S. student noted this dynamic: "With regards to cultural competencies, I feel like everyone was being cautious in not wanting to step on anyone's toes in the small groups. I felt like the Americans were facilitating the conversation or guiding it, feeling like we [the Americans] were just getting our perspective mirrored back to us sometimes."

The participation of the Chinese students was nonetheless exemplary, and the U.S. students were impressed with the ability of their counterparts to communicate. "I thought communication went very smoothly. All of the Chinese students' English was very impressive." "The language barrier did not stop us from talking about how our different cultures view fault and personal responsibility and the level of liability the government and companies have surrounding injury to citizens." "I found speaking with our Chinese peers relatively easy although I did pause to make sure I wasn't selecting words, terms, and phrases that might not translate well. Overall, thanks to their mastery of English, it was easy for me." "My partner had a great understanding of English so it did not seem to be an issue." One

---

[101] *Hacker News,* YCOMBINATOR.COM (Jan. 18, 2019), https://news.y combinator.com/item?id=18941721 (noting challenges with WeChat); Arjun Ruparelia, *How to Sign Up for WeChat Outside of China in 2022: WeChat App VPN Guide,* CLOUDWARDS (Mar. 7, 2022), https://www.cloudwards.net/how-to-sign-up-for-wechat/.

student was "not at all surprised that we were able to communicate in English, but the depth of our conversation did surprise me."

At the same time, at least some of the Chinese students did feel that a language barrier limited both the breadth and depth of the discussions they had with their U.S. counterparts. Much to their credit, several Chinese students expressed this frustration in the Chinese-language discussion we had following the final session of our exchange. At least one U.S. student also picked up on this dynamic: "I think some of the exchange students were hesitant to speak due to the language barrier. I'm not sure what we can do to encourage more participation, though. Maybe send out cases/materials?" Another suggested having an interpreter in case "there was ever something a Chinese student wanted to express but did not know how to in English. I think it would also be good to interpret our English into Chinese if there is a concept that was maybe misunderstood."

In the future, students would like to see more in-depth discussion, longer sessions, more materials overall, and more ways to communicate with their counterparts:

"I wish we had more sessions. I think that more sessions (maybe 4?) could have strengthened relationships and led to more in-depth conversations across the board."

"I wish one-on-one sessions and small-group discussions were longer. I did feel included the entire time, so great job facilitating!"

"I really enjoyed the small group/1-on-1 discussions. I felt like I got to know the student I was paired with very well and I wish I could have gotten to know them all that well."

"If you make the program longer, and more particularly larger, I think it would be beneficial to do some cultural training for the American students."

"I think it was successful given the time constraint. I think that lengthening the program would only improve that."

"I'd love to see a variety of different topics to discuss and choose between them."

"I think more guided questions to help the flow of conversation would be beneficial. Also getting set up to text one another prior to our first meeting would help us build more meaningful relationships because it allows for greater length of time to talk while actively [being] involved with the program."

"I have contacted a few of our Chinese peers outside of the session and I do plan to keep in touch. It is difficult to establish relationships after one, two interactions but I'm hopeful that conversations will continue."

From the Chinese side, students expressed their gratefulness for being granted the chance of exchange with the U.S. law school students during the pandemic. They were quite active in the conversations, which was beyond the expectation of the organizers.

"I am very grateful to have the chance to experience the international workshop atmosphere virtually."

"It is a very efficient and precious chance to prepare oneself for the possible future communication with legal colleagues from the U.S and other countries of different culture."

The volume and specificity of the feedback we received suggest that participants feel deeply invested in this program; they recognize its value and want to help advance its goals. Moreover, their enthusiasm is inspiring; they described their experience as "enjoyable," "awesome," "enlightening," "unforgettable," "excellent," "invigorating," and "insightful."

B. Organizer Reflection

As organizers, we each share some individual takeaways in our own words.

Karman: We (the organizers) agreed that this engagement was valuable and enjoyable for everyone involved. Three aspects that made

it particularly valuable include: first, the amount of preparation and trust building that went in behind the scenes, such as the preparatory sessions with students discussed above. It certainly helped that the organizers had known and worked with each other before planning the event. We were able to build up from a foundation of trust. Second, having a clear and interesting topic, in this case autonomous vehicles, anchors the discussion in a way that allows for stimulating and unpredictable discussion with a common focus. Lastly, the variety of engagement formats, including general discussion, breakout rooms, and chat groups for follow-up appeared to maximize the level of engagement and allowed students to examine the topic in depth while also meeting new friends and colleagues.

Leighton: The China-U.S. relationship is one of great importance, and due to cultural differences, it is often one that brings up a lot of misunderstandings on both sides. Chinese and U.S. cultures can seem an ocean apart, but this experience allowed students to cross that ocean and see the world through a new perspective. Without having to board a plane and actually travel across the world, Chinese and American students were able to grow and increase their cultural competency by being exposed to a new world view through this online workshop. It was such a joy to create a space for students to come together and bond over the similarities they face in school and in life and then watch it all unfold into new bonds and the forming of friendships amongst the students. To hear how students felt the program had impacted them and changed their perspective was great. In the beginning, I had concerns that the conversations might be difficult with language and cultural barriers, and it might be difficult for students to really connect online. However, I was pleasantly surprised to find that not only did most conversations flow nicely, but students were so invested they stayed online an extra two hours to continue the discussion. The best news of all was that every student commented in their surveys that they wanted more sessions and wanted more time getting to know each other. Overall, the program was a great success, and I look forward to watching it grow and making it better for future students.

Ying: Online exchange activities accompanied by the design and guidance of the teachers proved to be an efficient, convenient, and

fruitful teaching method with the help of internet communication tools. Especially for the topic around the regulation and legal issues of emerging modern technology, where traditional cultural barriers are lower, such as autonomous driving, the Internet, and so on, the discussions among the students were very vivid and open. It also provides a precious opportunity for the legal discipline in two countries to test the tension and challenge posed by the new technology to the traditional legal regime and reflect upon their own traditional legal resources in the era of modern technology. It was very encouraging for the students to experience the ongoing process of reflection and reconstructing, and even take a very active part in it.

Bryant: This experience epitomized our Carolina-Renmin House Rules: Embrace the uncertain, acknowledge the different, and celebrate the awkward. As organizers, we did not know how (and at times even whether) our virtual exchange would play out. Successful planning required identifying potential issues early and then discussing them candidly. This culture of openness depended on the trust that we extended to, earned from, and validated for each other. And this trust in turn demanded persistent communication as well as shared commitment, curiosity, and joy—values that we also sought, found, and cultivated in our student collaborators. We all did this together.

For me, our entire undertaking was both exhilarating and nerve-wracking. From the beginning, I abstractly perceived a range of potential sensitivities and even risks, but concretely understanding and ultimately managing them required a team with experiences that I did not have. Ying's courage, Karman's expertise, and Leighton's enthusiasm were essential to giving me the confidence and competence to proceed. Unlike these three, I do not speak Chinese—a fact that was painfully obvious when I belatedly realized I should have learned rules for pinyin (China's romanization system for Mandarin). Meanwhile, during our planning, Ying and I found that German was often more effective than our mother tongues. In short: We all tried to do our best using the tools available to us.

I have long been puzzled by a tension in lawyering: Good lawyers must be able to dynamically connect, categorize, and compartmentalize even though these skills often work against each

other. For example, a lawyer must concurrently compare and contrast, emphasizing one or the other as the circumstances require. They must draw parallels among cases while simultaneously safeguarding confidential information. This can be intellectually and even emotionally challenging.

Both the organizers and the student participants necessarily navigated similar tensions during our exchange. We each made decisions, consciously or subconsciously, about what to ask, what to share, and how to do so. We proceeded from assumptions and generalities even if for the sake of challenging them. We explored differences in perspectives that, as we expressly noted, could reflect variations among individuals as much as variations among cultures or legal systems. Ultimately, however, this exchange offered the opportunity to prioritize making all manner of connections— intellectual, practical, professional, and personal—without many of the ordinary constraints of lawyering. As Ying said so well, that is precious.

VI. Lessons Learned

A. Students

Our students were inspired and inspiring. As one noted, the sole reason for their participation was a strong desire to be involved. They stayed far longer than we expected, and they wanted more sessions than we predicted. It is important to build upon rather than squander this incredible energy.

B. Common Ground

All of us, including the organizers and participants, are people, and it is imperative that we show this at every opportunity. Asking participants to introduce each other reinforced this and worked quite well, even though self-introductions are much more common in both countries and more casual icebreakers are especially rare in China. Personal interactions (especially face-to-face, even virtually) are especially important for improving empathy. These interactions can also help reveal commonalities that might otherwise be overlooked. For example, we randomly paired two veterans—one from China and

another from the United States—who were able to relate to each other in part through their past military experience. It is also important to recognize professional common ground: Emerging technologies raise many shared legal challenges, communication and collaboration are universally important, and collaboration is a core academic principle.

C. Language

Reliance on English (or any other language) spoken as a second language raises numerous challenges. A slow and simple start helps everyone (even fluent English speakers) get accustomed to the accents, speaking habits, and vocabularies of their counterparts. A page of key legal and technical vocabulary translated into both languages might be a useful resource. A simple case study is likely to be more accessible to everyone and hence more meaningful than one that is unnecessarily complex. At the same time, there is clearly a desire for communication on a deeper level, and using some kind of simultaneous translation or interpretation for at least part of a program might help satisfy this desire.

D. Topic

The subject for an exchange should be accessible so that the participants need not be subject-matter experts. This accessibility also requires finding questions on which law students can easily apply their more generalized legal knowledge; automated driving worked especially well in this regard. The examples we used also helped students to quickly appreciate that rather than "the Chinese perspective" and "the U.S. perspective," there are actually many diverse and overlapping perspectives on law. This was especially evident when difficult legal questions produced alignments among the students that were without regard to nationality.

E. Lawyering Skills

Exchanges are an incredible opportunity to develop lawyering skills. In only two sessions, students learned to be more precise in their language by, for example, eschewing statements like "China says" or "the U.S. says" in favor of statements like "national highway safety regulations say." Trying to explain legal concepts in language that was

simple, clear, and free of unstated assumptions was an especially valuable exercise that should aid students in future interactions not only with people from other countries but also with people without legal backgrounds. Students also observed and practiced storytelling: They engaged in our case study that showed a fatal crash from multiple perspectives, and they offered both anecdotes and hypotheticals to make the legal abstractions we were discussing much more concrete and understandable. This ability to tell stories is another important legal skill, especially when communicating across linguistic divides.

F. Allocation of Time

We tried to minimize how long we presented to students during the actual sessions, because we felt that one-way presentations would take up valuable time and create a dynamic in which students felt less like active participants in a discussion and more like passive recipients of a lecture. At the same time, presenting can provide academic credibility and introduce students to concrete issues without requiring them to prepare in advance. Moreover, while advanced readings might have helped situate some students, they might have also deterred others from engaging. Given this, we might suggest integrating an introductory lecture into a preparatory session and providing the text of that lecture in advance for students who might benefit from the linguistic reinforcement.

G. Formality

Students had mixed views on the formality of our program. On one hand, many liked the extracurricular nature; several did not want the exchange to be curricular almost as a point of pride, and one explained that they took it more seriously and put more effort into it because they volunteered rather than taking it for credit. On the other hand, some expressed an interest in more formality, and indeed we consider some possibilities in the next section. Beyond the immense complexity of curricular integration, a key question is who we are trying to reach. A curricular exchange might garner wider exposure, while an extracurricular exchange might produce deeper commitment. Meanwhile, the design of a program might be very different depending on whether it targets students who are actively committed to cultural

exchange, students who are open to that exchange, or students who are skeptical toward that exchange.

H. Cultural Sensitivity

This is essential. For both the organizers and the participants, it is important to involve experts, to ask questions and listen to the answers, and to recognize the political context not just between countries but also within each country. Our preparatory cultural sessions were especially helpful. Fundamentally, effective cultural exchange depends on earning, extending, and validating trust.

I. Continuity

Sustaining individual and institutional enthusiasm by creating structures, opportunities, and incentives for follow-up is as important as it is challenging. The lack of a common platform is the most obvious obstacle: Email is ill-suited to ongoing personal communication, incompatible communication platforms (WeChat versus iMessenger versus everything else) preclude an easy alternative, and group chats on any platform can lose energy or relevancy. The better approach may be to create as many real-time face-to-face touchpoints as possible both during the initial course of the exchange and through subsequent reunions (and far more than the two we offered), to make tools and opportunities for following up apparent, and to ultimately trust that students who are interested will do so on their own initiative.

J. Integrating Virtual Exchange into Legal Education

By demonstrating both the desirability and viability of a virtual exchange between law students in China and the United States, our inaugural effort laid a foundation for a more sustained initiative. Here we have several ideas that we have begun to discuss with a view toward eventual implementation.

Our original model of extracurricular sessions has much to offer. For future iterations, we would endeavor to increase the number of sessions and to provide better structures for one-on-one interactions (through WeChat or other platforms) in between those sessions. We might accomplish this by integrating our exchange with

student organizations, legal journals, reading groups, or other established extracurricular undertakings. We might also recruit upper-level students who could talk with each other about their specific research papers.

There is also much potential for curricular integration (with the recognition that this possibility engendered a mixed reaction from our initial participants). This integration could include joint instruction, semester-long collaborations, and multiple "touchpoints" within regular courses. We consider each of these in turn.

Joint instruction—in which students from multiple universities would take the same course in substance if not in name—would be an especially ambitious undertaking given inevitable inconsistencies in school-wide curricular design, academic schedule, and time zone. Even so, there is precedent here: David Linnan, for example, teaches a synchronous course to law students in the United States and Indonesia.[102]

Semester-long collaborations between independent courses could achieve similar benefits while offering more institutional and logistical flexibility. Using the same or similar case studies could allow students to share ideas synchronously or asynchronously over the course of the semester, even if one course begins or ends later than the other. For example, independent courses could each focus on automated driving's implications for enforcement.[103] Early in the semester, students could come together to learn the basics of automated driving and to compare relevant legal frameworks: How are speeding laws enforced? Is speeding tolerated? What are the mechanics of a conventional traffic stop? What are the consequences of a ticket? What data are collected and used by what public and private actors for or through enforcement activities? Later in the semester, students could then compare and provide feedback on proposed solutions: How might law evolve to account for new forms of surveillance and

---

[102] *Live Courses,* WAYBACK MACHINE (Dec. 8, 2002-Nov. 2, 2019)*,* https://web.archive.org/web/20190125043900/http://www.lfip.org/english/livec ourse.htm (archived).
[103] *Ideal Enforcement*, NEWLYPOSSIBLE, https://newlypossible.org/wiki/ Ideal_enforcement (last visited Feb. 4, 2023).

enforcement? How should it? Throughout the semester, students could cluster with their counterparts based on their interest in particular subtopics, from civil liability to criminal procedure.

Alternatively, two courses could integrate multiple "touchpoints" into the existing coursework. Rather than jointly plan an entire semester, professors would instead identify key points where in-class, out-of-class, or even asynchronous interactions might reinforce existing learning outcomes. Students could engage each other in mock negotiations, oral arguments, and lawyer-client interviews; they could work together to compare legal rules; and they could react to substantive presentations by their counterparts. The topics could be domestic, transnational, or international. Asking questions and actively listening to the answers—essential and yet often underdeveloped skills in law schools in China and the United States—would be especially important for these exercises.[104]

Ultimately, our goal is to develop a sustainable framework for virtual exchange. To this end, Leighton is currently developing a nonprofit (B-corporation) business plan for a virtual platform through which graduate programs in China and the United States can initiate and conduct these programs. The goal is to develop class instruction that would give U.S. and Chinese graduate students unique opportunities to interact beyond just sitting in the classroom through group discussion, partner discussion, negotiation exercises, short writing exercises, and partner presentations. Through our inaugural workshop, she has been able to understand what works and what does not. To facilitate this process on both sides, she envisions incorporating tools for translation, scheduling, ice breakers, language preparation, and subject-matter reference. From a business perspective, the special case of the U.S.-China relationship also poses unique challenges and opportunities. It is through this platform she hopes to bridge the gap between China and the United States and thereby develop the next generation of transnational lawyers and entrepreneurs.

---

[104] On potential priorities for legal education generally, see *Humane Law School*, NEWLYPOSSIBLE, https://newlypossible.org/wiki/Humane_law_school (last visited Feb. 4, 2023).

VII. CONCLUSION

"Challenging and uncertain." This phrase could describe the past few years of pandemic, the state of U.S.-China relations, or the world into which our law students will soon graduate. But the phrase is much more useful as a premise than as a conclusion. As professors and scholars, we seek to prepare our students to rise to these challenges and to meet these uncertainties, whatever they may be. Cultural exchange is an essential part of this preparation, and our virtual exchange is a small but important step in this direction. While our effort is not unique in higher education generally, it does seem to be far too exceptional. Our greater vision is for cultural exchange—local, global, in-person, and virtual—to be an ordinary rather than extraordinary part of legal education. We hope that this article inspires and helps others to join us in making this vision a reality.