

Promoting U.S. University-based Hybrid Centers as a New Window for Advancing Rule of Law in China

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Executive Summary

This report concludes that U.S. university-based hybrid academic/NGO centers are uniquely promising entities to promote rule-of-law in China.

In the last decade, a number of U.S. university-based hybrid academic/NGO centers (hereinafter referred to as “hybrid centers”) have emerged with a targeted mission on Chinese legal reform. These hybrid centers include the Yale China Law Center founded in 1999, NYU US-Asia Law Institute (USALI) in 2006, and the Fordham Leitner Center in 2007.

This report concludes that hybrid centers occupy a unique middle space between traditional academic centers and NGOs. While enjoying the advantages of a neutral academic identity as perceived by the Chinese government, hybrid centers can effectively address practical legal reform issues within China.

Hybrid centers go beyond the traditional academic exchange model.

- U.S. university-based efforts in the ‘80s and ‘90s, pioneered by the Committee on Legal Education Exchange with China (CLEEC), focused on legal education exchange with a few legal scholars from elite universities in China.¹
- *However*, recent trends in China call for a tailored approach to support legal reform with a wider range of local partners at the practical level.
 - Civil society reformers who emerged over the past twenty years began to articulate specific needs that U.S. experts can address.²
 - Legal scholars in China began to take on a distinct consulting role in the Chinese government to assist with legislative drafting and provide advice in policy decision-making.³

¹ Aubrey McCutcheon, “Contributing to Legal Reform in China,” *Many Roads to Justice* (2000): 167-168.

² Stephanie Wang, “Funding the Rule of Law and Civil Society,” *China Rights Forum* (2003): 22-35.

- In lockstep with this development, hybrid centers simultaneously cooperate with diverse local partners to advance rule-of-law in China.

Hybrid centers are in a strategic position to address practical needs of Chinese society, while fulfilling U.S. policy goals.

- Hybrid centers represent an opening for U.S. partners to help promote rights and legal consciousness in Chinese society from the bottom up.
 - They work closely with growing civil society actors, not just with legal academics – such as public interest lawyers and legally trained advocates.⁴
 - They target practical legal reform issues in Chinese society, such as LGBT rights, women’s rights, HIV/AIDS healthcare and discrimination issues.⁵
- Hybrid centers can make a concrete impact on Chinese legal reform at policy-level.
 - They have a robust partnership with influential *activist scholars* in China who have a distinct consulting role in the Chinese government.⁶
 - They can utilize this partnership as a bridge to cooperate with official entities – such as local governments, procuratorates, and police – to address broader issues of administrative law reform and improve functions of legal institutions.⁷
- While being “helpful supporters,” these hybrid centers operate on clear policy goals that incorporate U.S. values and provide normative advice to Chinese partners.

Hybrid centers’ work is highly feasible and adaptable in the current realities of China to push rule-of-law to the next level.

- In the context of the Chinese government’s apparent “turn against law” in the past five years, *safe space* for U.S. involvement has become constricted.⁸
- Ironically, hybrid centers’ *comparative advantage* has increased.
- Their neutral identity and prestige as academic institutes help them assuage the Chinese government’s sensitivity towards U.S. involvement.⁹

³ Ma Chan, 《专家论证：20年足迹见证法制进步》[20 Years History of *Zhuanjia Lunzheng* Shows Chinese Legal System’s Progress], *Jinyangwang*, 25 Jan. 2007, http://myjjb.ycwb.com/2007-01/25/content_1363694.htm

⁴ Brochure for the NYU U.S.-Asia Law Institute (2013)

⁵ Elisabeth Wickeri (Executive Director of the Fordham Law School’s Leitner Center for International Law and Justice) in discussion with the author.

⁶ Yale Law Report, “The Law School Engages China: The China Law Center” (Winter 2003)

⁷ Jerome Cohen (Faculty Director of the NYU U.S.-Asia Law Institute) in discussion with the author.

⁸ Carl F. Minzner, “China’s Turn Against Law,” *The American Journal of Comparative Law* (2011): 935.

- These characteristics allow them to address “difficult” yet pressing topics – such as criminal law, constitutional law, and civil rights issues – that other NGOs cannot effectively address.
- By closely communicating with local partners on-the-ground, they diagnose openings in Chinese society and carefully push the limits of *safe space* set by the Chinese government.¹⁰

Recommendation 1: Expand support to hybrid centers

- DRL and private foundations should reserve a larger portion of grants for these centers
- Donors should allow flexible means and units of assessment for grants reports
 - Encourage them to “think outside the box”
- Donors should give a longer time horizon for grants
 - Centers need a long-term game plan to build trust and robust partnership
 - In a shorter-time frame, expectations are compromised
- Allow targeted research on Chinese rule-of-law to be eligible for grants
 - In-depth research is a defining characteristic of their unique strengths as hybrid academic/NGO centers
 - Funding research has added benefits to the U.S. government and relevant actors who might seek expertise about China from the leading scholars in hybrid centers

Recommendation 2: Encourage communication and cooperation between different hybrid centers

- Start an annual round-table dialogue between these centers’ leadership
- To complement this, initiate frequent informal exchanges throughout the year
 - Agendas can include discussing common challenges and insights about their project design, methodologies, and assessments by participants
- Donors can give weighted emphasis to cooperative projects between hybrid centers

⁹ Jacques deLisle, “Pressing Engagement: Uneven Human Rights Progress in China, Modest Successes of American Policy, and the Absence of Better Options,” *Carnegie Endowment for International Peace* (2007): 1.

¹⁰ Paul Gewirtz, “The U.S.-China Rule of Law Initiative,” *William & Mary Bill of Rights Journal* (2003): 621.

More communication is necessary for the following reasons:

- Status quo: lack of communication between hybrid centers
 - Partly because centers are competing for a limited pool of grants
 - Pressure to justify how they are unique and different from each other, when in fact they can learn a lot from each other
- Sharing experiential knowledge about volatile local trends in China is critical to success
- Communication would allow them to emulate each other's "best practices" to develop effective future projects
- Since each center has a different specialty and strengths, coordination can maximize the efficacy of their work as a whole

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Author Commentary

Jean Lee

This policy paper was one of the most exciting writing experiences I had in Princeton. I wrote this paper for my WWS Policy Task Force, *Building the Rule of Law in China: Is There a Role for the U.S.?* Over the course of drafting this paper, our class went on research trips to D.C. to hear perspectives from various policy makers and experts in the field. Some of them were actual clients for our Policy Task Force, and therefore it was illuminating for us to know what kind of policy recommendations they were expecting from us.

Initially, I researched on U.S. government-based efforts in legal cooperation with China, but quickly realized that non-government actors might have comparative advantage in leading cooperative programs with Chinese partners because non-government actors would look less political and thus less threatening to the Chinese. So, I looked to the private and academic sectors and was struck by a group of recently founded U.S. university-based centers that effectively combine many programs, ranging from legal educational exchange to on-the-ground legal reform projects in China, to help promote rule-of-law in China. I decided to zoom in on these centers.

One of the biggest challenges in my research was that the work of U.S. university-based centers is ongoing and constantly evolving. There was little literature written about their work. This led me to reach out to executive directors of these centers to better understand their work. During my interviews, I was once again struck by how the centers are so different from any of the pre-existing labels I had in mind. On one hand, they are like academic research centers: they promote scholarship in Chinese legal studies and engage in educational exchange with Chinese scholars. On the other hand, they feature distinctively practical dimensions somewhat like NGOs: they engage in on-the-ground legal reform projects with various local partners in Chinese civil society. How could I properly describe the multi-dimensional and complex nature of their work? This was a puzzle that became the main driving force of my research.

In describing their fascinating work, I consciously tried to focus on key take-away messages for our task force clients in the government, the primary reader of my policy paper. Instead of giving a full ethnographic account of centers’ dynamic work, I focused on *what makes them unique* and *why it matters*.

The Analytical Framework of my paper reflects this thought process. I ask two straightforward questions: “How are these centers different from traditional academic centers?” and “How are these centers different from NGOs?” By emphasizing their distinctiveness, I was able to highlight the “hybrid” nature of these centers. After playing with different names, I ended up calling these centers “Hybrid Academic/NGO centers” to illustrate the complex, nuanced, multidimensional nature of their work. In my final presentation to our Policy Task Force clients in the White House and State Department, I used this exact term “hybrid centers” as a catch phrase to make a case that they have unique strengths in cooperating with Chinese partners. This catch phrase, the final product of my conceptualization, was effective in the presentations.

As a student writer, it is often easy to enter research with pre-existing theoretical perspectives. Writing this paper helped me realize that sometimes it is exciting and fun to encounter and analyze a unique organization that *defies* existing labels and *invites* you to come up with a new framework of your own. The intellectual risks I took in defining hybrid centers’

work proved to be immensely fruitful in the end. In writing this paper, I became a strong believer of the U.S. university-based centers’ contribution in promoting the rule-of-law in China, and I am honored to share my paper. I hope this captures the dynamic and engaging discussions I had with the leading experts who run these centers!

Fellow Commentary

Stephanie Char

Clear section headings mark the progression of this paper’s logical, dynamic argument about the unique advantages of U.S. university-based hybrid centers to advance rule of law in China. The structure of this paper, which enhances the readability of the writer’s argument and directly reflects the writer’s line of reasoning, provides a clear model for organizing the many moving parts of an argument.

The paper’s thesis appears front and center, starting off a brief Executive Summary, and concludes the paper along with two policy recommendations. The thesis states that hybrid centers, a cross between academic programs and non-governmental organizations, are a useful means to address legal issues in China and suggests that the major hybrid centers in the U.S. communicate and learn from one another. By presenting the central claim of the paper at the very beginning and end, the writer contextualizes background information and details about the hybrid centers’ programs that start off the paper.

The division of the paper into sections, which are accentuated by headings in bold font and bullet points, clearly delineates the sections in the writer’s argument; this makes the paper’s argument easy for readers to follow visually and to return to specific sections during a rereading. In the Executive Summary, a topic sentence in bold font starts off each new section, drawing attention to and signaling the development of the writer’s argument. These structural elements contribute to clarity.

The various sections are ordered logically, with each section building off the previous. Indeed, there is no other viable order to present each section. The Executive Summary and “Background” section provide orienting information as well as the motive for examining hybrid centers in the first place. Only after explaining what is at stake and what has been done so far does the writer dive into defining the central key term of her paper: hybrid centers. To describe the “middle ground” occupied by hybrid centers, the paper poses the questions, “How are hybrid centers different from traditional academic centers?” and “How are hybrid centers different from straightforward NGOs”? By first answering these two queries, the writer is better able to distinguish hybrid centers from academia and NGO work and emphasize their hybrid nature.

The paper then evaluates the hybrid centers’ strategies and presents recommendations based on that evaluation in a structurally consistent manner. To address concerns about the hybrid centers’ strategies, the paper outlines the risks, conclusions, and assessments of different facets of their programs. This structural move instills confidence in the reader that the paper is thorough, as the consistency of writing about risks, conclusions, and assessments ensures that the writer does not avoid responding to difficult counterarguments. Here, structural decisions move beyond facilitating comprehension to bolstering the persuasiveness and credibility of the writer.