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INTERNATIONAL CONFERENCE ON THE RULE OF LAW: UNIVERSALITY, SPECIALTY AND ITS EVALUATION

On May 24, 2014, Renmin University Law school hosted an international symposium on "The Rule of Law Assessment: Universality and Particularity." The speakers and participants came from Mainland and foreign universities, Chinese judicial divisions and government branches and the focus of discussions was the World Justice Project Rule of Law Index 2014 and particularly the assessment of the rule of law in modern China. It was a busy and detailed programme and the following report deals with some of the highlights.

The first section concentrated on the "Universality and Particularity of the Modern Rule of Law." Prof. ZHANG Wenxian (Jilin University) said that to assess a country's legal system, four issues should be considered: first whether this country has a mature system of law; then whether law is applied equally and impartially within the country; then whether the political power is under proper control and finally whether there is the coherence between the domestic legal system and the international legal order.

Prof. ZHU Jingwen (Renmin University) pointed out that the assessment of the rule of law in different countries presupposes that these countries' legal systems can be compared under a basic framework, and also that each country has a stable political and economic order, *i.e.* so is not undergoing social crises or fast change. He argued that the degree of controlling the unreasonable and unpredictable use of political power lies at the very heart of the assessment of rule of law. The assessment of the implementation of the rule of law has a number of forms and includes the "scientific check" whose main concern is whether something is true or false, the "realistic check" whose main concern is reality, and "value evaluation" which is dominated by ideology or tradition. He also mentioned that the methods of assessment include quality assessment and quantity assessment.

Prof. Morigiwa Yasutomo (Nagoya University of Japan) said the main difference between human society and chimpanzees is that human beings live in a society where justice through law provides us with the realization of the public interest. He echoed Prof. Zhu's view that the importance of the rule of law is that it provides us with a constraint on and legitimacy to political power. Most importantly, it offers us the framework for the gaining of the common interest. Thus the rule of law can be regarded as a method to overcome the prisoner's dilemma by providing legal sanction and reward.

Prof. ZHU Suli (Peking University) commented that though the assessment or

quantification of the rule of law maybe useful, what is worth more notice is how to describe the issue we are dealing with. Because what always happens is that we have different views or interpretations of the same thing. For example, the increase in the police records of sexual harassment in the subway reported by women could mean that people nowadays have a stronger sense of law, or we could also say that our society is undergoing unsettling or upsetting changes. Even if we come to the conclusion that certain legal phenomenon has a positive meaning, we are still quite uncertain whether this could be called the rule of law in our society. What matters is not a big idea, but the detail and concrete reasoning.

Prof. ZHENG Yongliu (China University of Political Science and Law) commented that the rule of law is a relative and practical wisdom which consists in realizing the ideas in our actions.

The second section dealt with the "Rule of Law in China: Law Practice Assessment." Judge JIANG Huiling from the People's Supreme Court of China discussed the judicial assessment. He said it is always used by the court to evaluate their judges. But there was some uncertainty of how to unite the quality assessment and quantity assessment. For example, a judge who successfully decided and disposed of more cases than other judges does not mean he is a good judge, and *vice versa*. Though quantity assessment is easy to use, it is also misleading, and the current assessment of judges in Chinese courts is not always flexible and fair enough.

Prof. GAO Quanxi (Beihang University) said China had experienced three stages in its history; first there is traditional kingship society; second is the co-rule of the two parties, *i.e.* the Communist Party and the Nationalist Party; the third is a society of tradition united with the party-ruling. Thus we are facing the issue of how China, as a super-vast country and at the same time a developing country, realize its own model of rule of law against a globalization background.

Prof. FAN Yu (Renmin University) argued that while concentrating on the index of the assessment of the rule of law, we should be more cautious that our own problems are not underestimated or overlooked under the rule of law thinking that it predominantly dominated by the approach and thinking of western countries.

In the third section, participants discussed "The Possibility and Feasibility of the Assessment of Rule of Law." Mr. LI Zhengbin from the People's Standing Congress of Beijing talked about the current situation of the assessment of regulations in Beijing. He said most assessment done by his department is post-legislation evaluation and usually concerning specific regulations.

Prof. JIANG Lishan (China University of Politics and Law) identified some factors that affected the World Justice Project the Rule of Law Index for 2014. He noticed that the average GDP played an significant role in the index, *i.e.* a high average GDP figure

usually followed a relatively high index figure and vice versa. Thus there may be some relationship and link between the rule of law index and the economic development of a society.

Prof. Jacques deLisle (Pennsylvania University) talked about the possibility and feasibility of the rule of law. He echoed Prof. Jiang Lishan's view that there could be some link between a country's economic development and the rule of law. He introduced several schools of thought regarding of rule of law from a western point of view. For example, the possibility of a legal transplant across different types of legal systems, whether the rule of law must also entail a democratic political system, and the conflicts over the definitions of the rule of law in western countries. He admitted that the western rule of law has its limits and the socialist rule of law state may serve an alternative model.

Researcher RAN Jingfu (National Social Science Academy) commented on the possibility of the assessment of rule of law. The grounds of assessment must involve the agreement on some basic issues but this may be difficult. Some features of the rule of law may be universal in western countries, but some may not be agreed by the Chinese government. The assessment necessitates a general framework that is not purely particular to one country or area.

In the fourth section participants analyzed the world rule of law index. Researcher ZHI Zhenfeng (National Social Science Academy) regarded that the political stability and the speed of development is a necessary factor in constructing a rule of law country.

Postdoc LU Nan (Renmin University) reviewed the history of fabricating the Rule of Law index by American and international organizations. He said if the index is not impartial enough, it could be abused by some interest groups for the sake of promoting their own interests.

Prof. WANG Weidong and Prof. LU Yilong (the China Survey and Data Center of Renmin University) introduced the theory and methods of social statics and social surveys to all the participants. They mentioned the use of cross-disciplinary study. The sociologist can help the lawyer to find the answers once the latter provide the former with a certain basic theoretical framework for an issue to be surveyed.

In the final panel, all the participants agreed that the assessment of rule of law involves the cooperation between academics and practitioners. The index of the rule of law can help us to assess the past, the current and the future of our own legal system.

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