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The Role of Returned Teachers from Overseas Studies in the Cultivating Foreign-Related Legal Talents in China

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Abstract:

From reform and the opening-up to joining WTO, China's economy has achieved long-term and high-speed development. The strength of the country has enabled more and more domestic enterprises to realize the dream of 'going out'. In this process, it is inevitably restricted by international rules and faced with the problem of settlement of foreign-related disputes. Therefore, the demand for foreign-related legal talents has increased substantially. Colleges and universities are the main fronts for the cultivation of foreign-related legal talents. At this stage, China's colleges and universities have intensified their efforts to cultivate talents. How to accurately cultivate foreign-related legal talents has become an important topic. Taking college teachers who have returned from Japan as an example, this paper discusses the different advantages of teachers with different backgrounds, so that they can play a greater advantage in the process of cultivating foreign-related legal talents in colleges and universities.

Keywords: Xi Jinping thought on the rule of law, returned teachers from overseas studies, foreign affairs, rule of law, international rules

1. Introduction

The Fourth Plenary Session of the 18th Central Committee of the Communist Party of China passed the "Decision of the Central Committee of the Communist Party of China on Several Major Issues Concerning Comprehensively Promoting the Rule of Law", in which the importance of foreign-related legal work was emphasized. With the continuous deepening of China's opening to the outside world, the use of legal means to safeguard China's national sovereignty, security, and development interests, and strengthen the protection of China's foreign-related public and private law subjects, and improve the establishment of China's foreign-related legal system have become important issues. At the 2020 Central Conference on Comprehensively Governing the Country by Law, General Secretary Xi Jinping emphasized that 'we must adhere to the overall promotion of the domestic and foreign-related rule of law.' The construction of a foreign-related rule of law is an important connotation of Xi Jinping's thought on the rule of law, and an important part of comprehensively promoting the rule of law. The construction of a foreign-related rule of law is inseparable from foreign-related legal talents. The author believes that it is necessary to cultivate not only public law talents who can participate in the formulation of international rules but also private law talents who can protect the interests of enterprises and the people. In the process of cultivating such talents, returned teachers from universities and colleges play a very important role.

2. Definition and Connotation of Foreign-Related Legal Talents

In the ZTE and Huawei incidents in the past two years, Chinese companies were sanctioned by the United States. During this process, Chinese companies were unfamiliar with international rules and foreign laws, and the problem of insufficient foreign-related legal talents became prominent. Since the reform and the opening-up, there have been Chinese foreign-related legal talents in international organizations. However, with the proposal of the Belt and Road policy, after China has become the second-largest economy in the world, the phenomenon of 'the world cannot be separated from China, and China cannot be separated from the world' has become increasingly apparent. The demand for foreign-related

legal talents is increasing. China has stepped up efforts to cultivate foreign-related legal talents. Although certain achievements have been achieved, there are still problems such as insufficient quantity, experience, and abilityⁱⁱ. The author believes that the first thing to do to solve such problems is to define foreign-related legal talents. At this stage, China does not have a clear definition of foreign-related legal talents. What kind of talents will be caused by the vague definition? Is it a legal talent who knows international law or someone who knows both law and foreign languages or someone who understands both Chinese law and foreign law? How should colleges and universities conduct training without a clear definition? It is cultivated, thinking that it can take on heavy responsibilities, but in fact, it cannot solve the problem.

Huang Jin, President of the China Society of International Law, explained the foreign-related legal talents in the foreign-related legal work in Xi Jinping's thoughts on the rule of law; iii. He believes that foreign-related legal talents are international legal talents. In addition, Professor Zhang Falian of the China University of Political Science and Law believes that the content of foreign-related legal work should not be equal to or limited to the teaching of international law; iv. The minimum requirements for foreign-related legal talents are professional knowledge of foreign-related legal studies and legal English ability; v. As early as 2011, in the 'Several Opinions of the Ministry of Education and the Central Political and Legal Committee on Implementing the Education and Training Program for Outstanding Legal Talents', foreign-related talents are 'international vision, familiar with international rules, good at handling international affairs and safeguarding national interests' talents'.

3. Foreign Definitions of Foreign-Related Legal Talents

Foreign-related legal talents in Japan are divided into legal talents serving in international institutions and foreign-related lawyers. The following is a comparison of relevant legal talents between China and Japan to clarify the concept of foreign-related legal talents.

3.1. Legal Talents Working in International Institutions

The more well-known Japanese in the legal circle are the former president of the International Court of Justice (ICJ) Hisashi Owada^{vi}, and the former chairman of the WTO Appellate Body Yasubei Taniguchi^{vii}. From the experience of these two people, they have both overseas study experience and experience in domestic and foreign affairs departments. In China, there are also many legal talents active in international institutions, such as Justice Yuejiao Zhang, former chairman of the WTO Appellate Body, and Hanqin Xue, chairman of the United Nations International Law Commission. According to statistics, China's influence in international organizations is growing, and more and more people hold important positions in international organizations. Among the top 15 specialized agencies of the United Nations, China holds 4 seats.

3.2. Foreign Lawyers

In daily life, we often hear the title of 'international lawyer'. An international lawyer is not a qualification, but a title of an industry^{viii}. There is no fundamental difference between foreign lawyers and international lawyers. Foreign lawyers can be divided into several situations: a) Those who have both domestic and foreign lawyer qualifications; b) Those who do not have domestic lawyer qualifications, but have foreign lawyer qualifications, and those who engage in transnational cases in China; c) Only have National lawyer qualifications, people exposed to transnational cases due to work reasons. Any lawyer, who handles cases involving foreign elements, can be called a foreign lawyer. The work of these lawyers mainly includes consulting when Japanese companies invest abroad, preparing and negotiating M&A contracts, and resolving international disputes. In Japan, what is called a foreign-related law firm mainly handles foreign-related cases. There are 46 foreign law-related law firms registered in Japan^{ix}. It can be seen from the lawyer information on the website of the Japanese foreign (international) law firm that most of the lawyers have lawyer qualification certificates in Japan and a certain state in the United States, and all have long-term overseas study experience.

From the definitions of foreign-related legal talents in China and Japan, slight differences can be concluded. China tends to be more general, and mainly focuses on public law talents who can solve international disputes. Japan mainly focuses on foreign-related legal talents in the field of private law. However, whether it is a legal talent in public law or a legal talent in private law, the common conditions for being a foreign-related legal talent are at least one country's lawyer qualification certificate; knowledge of English (or more than one other foreign language); overseas study experience; understanding Foreign culture and habits; familiar with international rules.

In addition, through investigation and research, not only do foreign-related law firms provide opportunities for new lawyers without overseas study experience, but Japanese courts also provide opportunities for judges to study abroad. The Supreme Court of Japan stipulates those 1-2 years of work in a unit other than the court is required as an external experience. The purpose is to allow judges to throw away their identity as judges and gain more knowledge in a broader perspective. External experience can be obtained by going to the legal department of the company, or other administrative departments, and studying abroad. According to the data provided by the Supreme Court, in 2019, 35 judges were studying abroad in courts across Japan^x. The countries where they studied were Europe and the United States, and the laws they studied were the judicial systems or departmental laws of European and American countries^{xi}. From the definition of foreign-related legal talents, the nature of the work that such talents will be engaged in in the future and the required abilities and accurate training plan can be formulated.

4. The Chinese Government Has Created Conditions for Overseas Students to Return Home

According to statistics from the Ministry of Education in 2019, about 700,000 Chinese students were studying abroad that year, and about 580,000 people returned home in the same year^{xii}. Most overseas students choose to return to

China after graduation. Through research, it is found that the reasons for returning to China include: the tightening of foreign visa policies and the inability to stay abroad, the rapid development of the domestic economy and more room for development, returning to China to take care of parents, etc.^{xiii}. The author believes that not only for these reasons but also the patriotic enthusiasm of 'you only know how patriotic you are when you go abroad' and the country's united front policy also play an important role.

In the early days of the founding of New China, through publicity, mobilization of relatives and friends of overseas students, and the establishment of special institutions for overseas students to return to China, the Chinese people all over the world were united and worked together for the construction of New China^{xiv}. With the development of China, the policies and regulations for returning overseas students have also been continuously improved, from the original 'must return to China' to 'try to strive for return', and then to 'encourage return and freedom of coming and going', which fully reflects the people-oriented transformation. The China Scholarship Council provides scholarships for high-level talents studying abroad, and key programs such as the 'Hundred Talents Program', 'Thousand Talents Program', and 'Changjiang Scholars' are also aimed at attracting overseas talents to return to China. In addition, innovating projects and scientific and technological talents, local governments and enterprises have spared no expense indirectly bidding and recruiting talents for projects abroad. Universities and local governments in various regions have also given support to those returning from studying abroad, and more liberal arts students choose to enter domestic universities for employment after studying abroad.

At the 100th anniversary of the founding of the European and American Students Association, General Secretary Xi Jinping affirmed the contributions to the motherland of the returning talents from studying abroad in the past dynasties, emphasizing that 'practice has proved that the vast number of overseas students are worthy of the precious wealth of the party and the people, and worthy of the realization of the great rejuvenation of the Chinese nation.' A sixteen-character policy was put forward for students studying abroad, 'supporting them to study abroad and encouraging them to return to China without any cost and play a role'^{xv}. In 2017, when General Secretary Xi Jinping replied to the letter to the Chinese students at Moscow State University, he placed high hopes on the overseas students, hoping that they would become outstanding talents worthy of great positions^{xvi}. Therefore, it is evident that the state attaches great importance to overseas students, and the complex of overseas students, who care about their motherland, is also deeply rooted in the hearts of the people. The purpose of returning to China is to serve the motherland. Therefore, those returning from studying abroad should bear in mind General Secretary Xi's 'sixteen-character policy' to give full play to their skills and advantages in studying abroad and contribute to the construction of foreign-related legal talents in China.

5. Advantages and Disadvantages of Returning Teachers

When China joined the WTO, at the last moment, then-Premier Zhu Rongji called the negotiator Long Yongtu, 'Based on what you know about the Americans, do they want to sign or not?' Long Yongtu's answer was 'Based on my years of experience dealing with Americans and my understanding of them...' In the process of dealing with foreign countries, the understanding of foreign cultures plays an important role. Therefore, in the process of cultivating foreign-related legal talents, the understanding of foreign cultures is also crucial. In response to this problem, teachers, who have returned from studying abroad, should be carefully divided and discussed separately. There are two categories among the doctoral students studying in Japan, whether it is a doctoral student in the arts or a doctoral student in the sciences. One is a public-funded study abroad, and the other is a privately funded study abroad. There are two types of study abroad at public expense. One is those who go abroad with the support of the China Scholarship Council, or the relevant treaties concluded between the Ministry of Education, Culture, Sports, Science and Technology of Japan and China. This type of doctoral degree is generally for a doctoral student in a domestic university. Some have not experienced systematic Japanese training. Since there are enough scholarships and no tuition fees, this type of doctorate often has little contact with Japanese society. And the final dissertation can be done in English, which greatly reduces the desire to learn Japanese. The other type is privately funded doctorates. Privately funded doctors often follow their tutors from the time of their master's degree, and then most of them go straight to a doctoral degree. The characteristics of this type of doctoral degree are that they have a long stay in Japan, have in-depth contact with Japanese society, and have a good understanding of Japan. Cultural understanding is a strong Japanese ability.

The above two types of teachers have different advantages and disadvantages, and distinguishing different types of teachers will help to accurately achieve the goal of training foreign-related legal talents.

6. Advantages and Disadvantages of Public-Funded Students Studying Abroad

The advantages of public-funded students studying abroad include the following.

6.1. Familiarity with the Domestic Situation

After a period of study, they can go to Japan to study in Japan after obtaining a program from the China Scholarship Council or a program from the Ministry of Education, Culture, Sports, Science and Technology of Japan. Therefore, they are very familiar with the domestic situation and have established a deep connection with their classmates and teachers during their school days and have their own independent opinions in the judgment of things.

6.2. Mastery of Domestic Resources

At the postgraduate or doctoral level in China, they will follow their tutors to conduct research. Learn more about the current situation in related fields in China by participating in academies and other means. And the relationship between people can continue to be maintained, and there is room for further deepening.

6.3. Outstanding English Ability

English is the first foreign language in our country's compulsory education, and under normal circumstances, it is also one of the subjects for the college entrance examination, postgraduate entrance examination and postgraduate entrance examination. Therefore, students, who can read a master's degree and enter the doctoral period, have outstanding English ability. During their doctoral studies in Japan, these students can listen to lectures in English, present their projects, talk with professors, and write their graduation thesis. If you are a Doctor of Science and engineering, it is not a big problem to master a certain English foundation. However, the problem here is that if you are a Doctor of Liberal Arts, you study Japanese law, you don't know Japanese, and you only know English, it will be relatively difficult.

The disadvantages of public-funded students studying abroad include the following.

6.4. Not Understanding Japanese Culture

Since I have not lived in Japan for a long time, it is usually 3 years during my PhD study, and it is difficult to have a deep understanding of a country's culture. Moreover, during the period of doctoral study, since it is a public school, the receiving school will take care of them according to their needs. As a result, there are not many opportunities for this kind of public derivative to have contact with the general Japanese. Even if the contact is short-lived, it is impossible to deeply understand the habits of the Japanese.

6.5. Insufficient Japanese Proficiency

As mentioned above, since classes and writing papers can be completed in English, and living in a group dormitory or living alone outside, there are not many opportunities to use Japanese. In this way, even though you are studying in Japan, you do not understand Japanese.

7. Advantages and Disadvantages of Privately Funded Students Studying Abroad

The advantages of privately funded students studying abroad include the following.

7.1. Familiar with the Situation in Japan

Privately funded students in Japan usually cover all expenses on their own. In the past, when China's economy was not very developed, these international students usually had to work and study part-time after coming to Japan. Even now, many international students, who are privately funded, are still in the state of part-time study. They have to earn enough not only for their living expenses, but also for their tuition fees. Because of their full contact with Japanese society, they understand the local customs, know how to deal with Japanese people, understand Japanese cultural etiquette, and abide by local customs and rules.

7.2. Outstanding Japanese Ability and Strong Communication Skills with Japanese

The earlier the language is cultivated, the better. Therefore, the earlier those, who come to Japan to study abroad, the better their Japanese ability, which is reflected in both pronunciation and vocabulary. In terms of life, whether it is part-time work, renting a house, or going to government agencies, you must do it yourself. While developing a certain degree of independence in this environment, language skills and communication skills are also cultivated. Moreover, the daily contact with the Japanese people at the grassroots level can fundamentally improve the Japanese people's impression of the Chinese.

7.3. Strong Communication Skills with International Students

There are many international students in Japanese universities, from all over the world, for instance, Yokohama National University in Japan. The school has nearly 1,000 international students from 69 countries, accounting for 10% of the total students. There are more Chinese people in the legal discipline, and there are also international students from European and American countries, Southeast Asia, and African countries^{xvii}. Everyone lives in the same dormitory, attends classes together, and participates in exchange activities organized by the school and local government agencies and most importantly, understands each other's culture, customs and laws of each other's countries.

The disadvantages of privately funded students studying abroad include the following.

7.3.1. Not a Deep Understanding of the Domestic Situation

Due to being away from home for a long time, most of the domestic situations are limited to the Internet. And it is far from their life circle, so it is difficult to have a full understanding of the domestic situation.

7.3.2. Disconnection of Domestic Resources

Being abroad for a long time will cause domestic friends to lose touch with each other, and the network will need to be rebuilt after returning to China.

From the above comparison, the teachers, who returned from studying abroad at the public school and the teachers who returned from studying abroad at private expense, have their characteristics, but everyone has a pure heart to serve the motherland. This sentence *As soon as you go abroad, you love your country* is very reasonable from a practical point of view^{xviii}. For example, in the 2008 Beijing Olympics, when the Olympic torch was passed to Japan, international students organized activities to protect the torch relay. In addition, whenever they are needed in China, they will contribute to the motherland as soon as possible. In the sudden outbreak of the new crown epidemic in China at the end of 2019, the international students organized donation activities. In addition, in the process of studying and living abroad,

academic thinking is more open, and through daily study, one can learn the knowledge of various countries and different fields.

Therefore, regardless of public or private funds, returned teachers will devote themselves to the construction of foreign-related legal talent training with enthusiasm. However, in the process of training, different types of teachers returning from studying abroad should give full play to their advantages and reinforce their disadvantages.

8. The Role of Returned Teachers from Studying Abroad in Cultivating Foreign-Related Legal Talents

We suggest that the following roles can be played by returned teachers who have studied abroad in cultivating foreign-related legal talents.

8.1. Cultivating Students' International Vision

An international perspective is a skill. Although there is no precise definition, it can be found from the modern economy and society that we should cultivate students: to be proficient in more than one foreign language and have the ability to communicate with foreigners, to be flexible to accept and solve changing situations, to think more Globalization, not only to consider the interests of one's own or one's own country, but also to think from the interests of the whole world, to understand the culture and traditions of one's own country and other countries, and to have received professional education, to have a deep and clear understanding of one's own opinions, to have theoretical knowledge, sexual thinking ability, to always pay attention to international trends. Teachers, who have returned from studying abroad, have lived and studied abroad and possess the above-mentioned abilities. They should influence and teach students through their international vision.

8.2. Cultivating Students' Contract Spirit and Awareness of Rules

Contract spirit and contract consciousness are two concepts. As one of the basic principles of international law, 'pacta sunt servanda' (a contract must be kept) is a concept based on contract law. This principle is enshrined in Article 26 of the Vienna Convention. The state must abide by the stipulations of the treaty, and people must also keep their promises. In real life, most often there is a sense of the contract. For example, a lease contract is signed between a landlord and a tenant, but there are only We Chat records, and no paper contracts. In this case, one party believes that without a paper contract, it is not necessary to abide by the commitment. This kind of thinking does not have enough understanding of contract law, which leads to using one's consciousness to judge legal issues. Rules can be seen everywhere in social life. When China joined the WTO, one of the most common words was 'conformity', which, at that time, meant that China's economic system should be unified with international standards, that is, to comply with the requirements of international rules^{xix}. The purpose of cultivating foreign-related legal talents is to let these talents understand international rules, and in the future, they will be able to formulate international rules on behalf of the interests of the country. Whether in Western countries or Japan, those, who have studied abroad, their experience will reflect the spirit of the contract. Taking Japan as an example, the things agreed upon by the two parties will not be easily changed. It will cause trouble to the other party and cause them to lose their trust.

8.3. Creating Opportunities for International Exchange for Students

Studying abroad is the most direct and effective way of international exchange, but it is worth noting that the purpose of studying abroad is not only to learn advanced knowledge abroad but also to learn the culture and customs of the other country. In this way, mutual understanding and effective negotiation can be promoted in future exchanges. In addition, under the background of the new crown epidemic raging around the world, it has provided unprecedented convenience for academic research. At present, societies in many countries can be carried out through the Internet. Teachers, with experience in studying abroad, will join the academic organizations of the countries where they study abroad. If this kind of society or research society allows auditions, the author thinks that students can participate in them. In addition, foreign experts can be invited to give professional lectures to domestic students from time to time. It is also possible to discuss a topic with foreign students in the form of an inter-student seminar. While enhancing students' foreign language ability, it will also enable students to understand each other's culture and allow each other's countries to have a better understanding of China.

8.4. Guide and Encourage Students to Read Original Works in Foreign Languages

Doctors, who have returned from studying abroad, will generally know that while writing a thesis if the cited literature is not first-level literature, likely, the dissertation will not be approved. Reading original works in foreign languages can not only improve students' foreign language skills but also discover details from the original texts that others have not yet discovered and cultivate students' ability to think from an international perspective. For example, the judgments of WTO cases generally have more than 100 pages. When we look at the relevant books on domestic WTO cases, we will summarize the main points. But while dealing with international disputes, the details are often the most important. If you don't read the original text, you won't know the details, and if you don't know the details, new problems will occur while dealing with problems or while reading foreign SSCI science and engineering literature, there are a lot of proper nouns and formulae.

8.5. Strengthen Students' Understanding of International Law

It can be seen from the process of legal education in our country that the legal education of international law does not occupy the core position, although the academic circles call for international law to be listed as a first-level discipline.

The reply of the Ministry of Education is to 'continue to support qualified colleges and universities to independently set up second-level disciplines of international public law, international private law and international economic law under the first-level discipline of law'^{ix}. However, we still need to focus on the education of international law. The international rule of law and foreign-related rule of law emphasized by President Xi Jinping is inseparable from the principles of international law. Although the foreign-related rule of law reflects the application of domestic law, the application is based on the jurisdiction of international law. The process of application also involves the principles of international law in terms of whether it violates the sovereignty of other countries. Therefore, improving students' understanding of international law and international rules is an indispensable factor in the cultivation of foreign-related legal talents.

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