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Alan Ellis: The Bill of Rights and The Training of Chinese Lawyers

Mill Valley, CA January 29, 2010 – Alan Ellis, a nationally recognized criminal defense attorney in the United States, has spent much of the last three years teaching Chinese judges, law professors, lawyers, and law students about the American justice system and how it relates to the rule of law.
http://www.marini.com/marinnews/ci_10277892

Ellis is a past president of the National Association of Criminal Defense Lawyers (NACDL) and is a contributing editor to the American Bar Association's *Criminal Justice* magazine. He has been described as "one of this country's pre-eminent criminal defense lawyers" by *Federal Lawyer* magazine. He has offices in Mill Valley, CA, Philadelphia, PA, and Shanghai, China. He joined Longan law firm, one of China's pre-eminent law firms, headquartered in Beijing and Shanghai as Foreign Legal Counsel.
<http://asia.legalbusinessonline.com/site-search/new-foreign-legal-counsel-for-long-an/34412?keyword=ellis>

In 2007, Ellis, then a Visiting Fulbright Professor of Law at the prestigious Shanghai Jiaotong University's School of Law, delivered a series of guest lectures throughout China on the constitutional protections afforded criminal defendants in the United States on behalf of the U.S. State Department. He and his wife, Jie "Hai Lin" Zheng, also hosted in their Tiburon, San Francisco Bay area home, a delegation of Chinese Supreme Peoples Court judges who were in the United States on a comparative law tour. The couple also have a home in Shanghai. Ellis was the first practicing American criminal defense lawyer invited by both countries to teach and train judges, lawyers, and law students in China.

"I never hid the fact that I was at heart a human rights lawyer," says Ellis who, at 66, has been practicing law for over 40 years, "and at no time was I ever told what or what not to say. It's a tribute to the Chinese that they are very open to learning about our private system of lawyers, in particular, who have been in existence since 1992, are hungry for hands-on experience from American attorneys."

To illustrate the importance of the 'fair administration of justice,' Ellis used NBA Houston Rockets Chinese basketball star, Yao Ming. "I just told them to consider how upset they'd be if Yao were fouled in a game, but the foul wasn't called because the referee wasn't impartial."

To explain the importance of right to counsel, Ellis appealed to the Chinese people's growing concern with the increasing gap between rich and poor. "I told them

that everyone in America, even indigents, have the right to counsel,” Ellis says. “I also told them that we with a population of 300 million of whom 2 million are imprisoned have an estimated 5% wrongful conviction rate, even with our largely trained public defender system. I suggested they with 1.3 billion people might want to consider their wrongful conviction rate, since Chinese defendants have a very limited right to counsel.” He played for his audiences a made-for-TV movie, *Gideon’s Trumpet*, with the late Henry Fonda who portrayed Clarence Gideon, a destitute prisoner whose handwritten plea for justice changed the course of American legal history—*Gideon v. Wainwright*—the 1964 landmark “right to counsel” Supreme Court case.

Ellis believes the real change in China will come from within.

China is neither philosophical nor a political monolith. The Chinese Communist Party views are as diverse as can be found in our House of Representatives. In fact, it’s not a stretch to say there is a progressive wing of their party whose agenda resembles that of our own Democratic Party.

Ellis also points out that one group who might be agents for change are the tens of thousands of Chinese students who study here in the United States. These students value American know-how and are eager to be educated in our universities.

Currently, there are 67,000 Chinese students in American universities. From Shanghai alone, 88% of all student visa applications were granted last year. “These are the people who will shape the future of China,” he says. “In 2008 many of them witnessed democracy in action as candidates wrestled their way to nomination and then to the November election. When they go back home to China—and most of them will go back because they’re very proud to be Chinese and China is where their economic future lies—they will bring their American experience back which may affect change.”

In the meantime, Ellis is doing his share to help prepare China’s legal system to support that change if and when it comes.