

WHY AND HOW U.S. LAW SCHOOLS OUGHT TO
PROMOTE INCLUSION OF BLACK SCHOLARS AND LEGAL
PRACTITIONERS IN CHINESE LEGAL STUDIES PROGRAMS*Kori Cooper**

INTRODUCTION

Recent developments, such as incidents of legalized discrimination against Black expatriates, tourists, and students in China,¹ raise questions about why Black scholars and legal practitioners are largely absent from global debate over how China's laws and legal institutions function. Despite the Supreme Court's opinion that U.S. law schools and the legal community benefit from an "interplay of ideas and the exchange of views" amongst diverse members of society in its landmark decision *Sweatt v. Painter*,² there is a notable lack of representation of viewpoints from members of Black ethnic groups among experts within Chinese legal studies programs at U.S. law schools.³ Moreover, while there has been growing criticism from U.S. academics and legal experts of the current status of Sino–Black relations,⁴ Chinese legal studies programs at U.S. law

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1. Jenni Marsh & Nectar Gan, Africans in Guangzhou Are on Edge, After Many Are Left Homeless amid Rising Xenophobia as China Fights a Second Wave of Coronavirus, CNN (Apr. 13, 2020), <https://edition.cnn.com/2020/04/10/china/africans-guangzhou-china-coronavirus-hnk-intl/index.html> [<https://perma.cc/28RT-GT6J>].

2. 339 U.S. 629, 634 (1950).

3. See *infra* Part II.

4. See, e.g., Keisha A. Brown & Ruodi Duan, Teaching China Through Black History, Medium (Jan. 30, 2019), <https://medium.com/fairbank-center/teaching-china-through-black-history-30e3cdc32f03> [<https://perma.cc/QP73-L8WD>] (compiling a reading list of articles, blogs, and books examining Sino–Black relations). The term "Sino–Black relations" was coined by modern China historian Keisha A. Brown. She uses it to refer to "transracial and transnational interactions between the [People's Republic of China] and African Americans." Keisha A. Brown, Blackness in Modern China: W.E.B. Du Bois and Chinese Representations of Blackness, Medium (Mar. 1, 2017), <https://medium.com/fairbank-center/blackness-in-modern-china-w-e-b-f3afbecca19b#> [<https://perma.cc/QML3-3LP6>]. In this paper, I use the term more broadly to refer to interactions between China and people of African heritage globally (including Black Africans, Black Caribbeans, and other groups in addition to African Americans).

schools often lack components that promote the inclusion of Black scholars and legal practitioners.⁵ This state of affairs has created a gap in the field of study that causes law schools to overlook unique ideas and views that come from individuals who do not fit the traditional model of the Chinese national or so-called “China expert.”⁶ Unfortunately, there is little to no research examining the effect this particular oversight has had on Chinese legal studies or how to remedy it.

In response, this Comment examines why and how U.S. law schools ought to address the lack of inclusivity their programs struggle with. Part I explains the significance of Sino–Black legal relations today. Part II addresses why the inclusion of Black scholars and legal practitioners, or lack thereof, should be considered a matter of concern by law schools. It also describes the findings of a survey this author conducted of Chinese legal studies programs at law schools across the United States. Lastly, in Part III, this Comment proposes ways in which U.S. law schools can strengthen their programs’ ability to connect with and retain Black participants. In summary, this Comment argues that U.S. law schools should actively promote inclusion within Chinese legal studies programs to improve their academic quality, as well as their value to all members of the legal community, and suggests ways in which they can do so.

I. LEGAL ISSUES RELATED TO SINO–BLACK RELATIONS TODAY

Since the city-wide lockdown of Wuhan, the original epicenter of the novel coronavirus pandemic, was lifted on April 8, 2020,⁷ instances of legalized discrimination against Black people in China have drastically increased in frequency and severity. In the southern city of Guangzhou, for instance, thousands of Black migrants, traders, and students lived under mandatory lockdown or returned before the government temporarily suspended the entry of foreign nationals holding visas or residence permits in late March.⁸ However, under the direction of govern-

5. See *infra* Part II.

6. This is a term often used by media outlets to refer to foreigners who actively study China or have a deep familiarity with some aspect of the country through their work. However, like the term “China Watcher,” its use as a descriptor is sometimes criticized. See, e.g., Tom Nickel, *We Are All China Watchers Now*, Medium (June 21, 2019), <https://medium.com/@tomnickel/we-are-all-china-watchers-now-3e7392a3c00f> [<https://perma.cc/2TUY-68Z9>]; Tom Plate, *China Against the World: A Tale of Pride and Prejudice*, S. China Morning Post (Aug. 1, 2016), <https://www.scmp.com/comment/insight-opinion/article/1997701/china-against-world-tale-pride-and-prejudice> [<https://perma.cc/JXA6-A8VR>].

7. David Culver, *Wuhan Shows the World that the End of Lockdown Is Just the Beginning of the Covid-19 Crisis*, CNN (Apr. 30, 2020), <https://www.cnn.com/2020/04/29/asia/wuhan-coronavirus-lockdown-analysis-intl-hnk/index.html> [<https://perma.cc/YPW7-YK8L>].

8. Ministry of Foreign Affairs of the People’s Republic of China National Immigration Administration Announcement on the Temporary Suspension of Entry by Foreign Nationals Holding Valid Chinese Visas or Residence Permits, Ministry of Foreign Affs. of

ment officials, hundreds of these individuals have been kicked out of and denied housing, refused service by local vendors, and subjected to random testing for COVID-19.⁹ Inconsistent immigration laws and racial profiling by police have also caused Black ethnic groups to face more random passport inspections and arrest incidents in recent months.¹⁰ In doing so, the government claims to be addressing a fear of illegal immigration and “imported” cases of COVID-19.¹¹ Controversial events such as these have drawn the attention of commentators in China and abroad to long-standing concerns over the extent to which Black people face discrimination in the course of dealing with the Chinese legal system.¹²

Despite sharing a rich history of political and social interaction, Sino-Black relations have long been affected by legalized discrimination in China.¹³ For example, the province of Guangzhou’s Public Security Bureau has routinely labelled African citizens in the country as “sanfei,” or “triple illegal,”¹⁴ which “refers to those who enter, stay, and work in China illegally.”¹⁵ However, cultural studies scholar Roberto Castillo notes that “research has tended to represent Africans as a mass of traders . . . and [by] conflat[ing] their presence in [Guangzhou] with immigration . . . these representations fail to account for the complexities associated with the multiple trajectories . . . of individuals in the city.”¹⁶ Furthermore, interdisciplinary studies scholar Guangzhi Huang com-

China (Mar. 26, 2020), https://www.fmprc.gov.cn/mfa_eng/wjbxw/t1761867.shtml (on file with the *Columbia Law Review*); see also Danny Vincent, Africans in China: We Face Coronavirus Discrimination, BBC (Apr. 17, 2020), <https://www.bbc.com/news/world-africa-52309414> [<https://perma.cc/Y3S-HX88>].

9. Celine Sui, China’s Racism Is Wrecking Its Success in Africa, Foreign Pol’y (Apr. 15, 2020), <https://foreignpolicy.com/2020/04/15/chinas-racism-is-wrecking-its-success-in-africa> (on file with the *Columbia Law Review*).

10. African Nationals ‘Mistreated, Evicted’ in China over Coronavirus, AlJazeera (Apr. 12, 2020), <https://www.aljazeera.com/news/2020/04/african-students-mistreated-evicted-china-coronavirus-200412100315200.html> [<https://perma.cc/23DR-ED4F>]; see also Marsh & Gan, *supra* note 1.

11. Marsh & Gan, *supra* note 1; April Zhu, A Lost ‘Little Africa’: How China, Too, Blames Foreigners for the Virus, N.Y. Rev. (May 5, 2020), <https://www.nybooks.com/daily/2020/05/05/a-lost-little-africa-how-china-too-blames-foreigners-for-the-virus> [<https://perma.cc/CH8D-VZVZ>] (“By April 11, the authorities in Guangzhou had identified one hundred and nineteen ‘imported’ cases of Covid-19, twelve of which concerned nationals of African countries.”).

12. See, e.g., African Ambassadors Complain to China over ‘Discrimination’ in Guangzhou, Reuters (Apr. 11, 2020), <https://www.reuters.com/article/us-health-coronavirus-africa/african-ambassadors-complain-to-china-over-discrimination-in-guangzhou-idUSKCN21T0T7> (on file with the *Columbia Law Review*).

13. See generally Barry Sautman, Anti-Black Racism in Post-Mao China, 138 *China Q.* 413 (1994) (providing examples of racism and discrimination in China’s history).

14. Guangzhi Huang, Policing Blacks in Guangzhou: How Public Security Constructs Africans as Sanfei, 45 *Mod. China* 171, 175 (2019).

15. *Id.*

16. Roberto Castillo, ‘Homing’ Guangzhou: Emplacement, Belonging and Precarity Among Africans in China, 19 *Int’l J. Cultural Stud.* 287, 288 (2016).

ments that failure to force a more significant consideration of issues related to racial profiling of Africans by the Chinese police “runs the risk of reinforcing the stereotypical image held by Chinese that [Black people] have no respect for the law.”¹⁷

China’s Belt and Road Initiative (BRI) has significantly influenced the status of Sino–Black relations today as well. In 2013, the current Chinese state leader, Communist Party of China (CPC) General Secretary Xi Jinping, announced the BRI, a global economic investment and infrastructure program, as the government’s signature vision for reshaping its foreign engagements.¹⁸ Also known as the “One Belt One Road” program, the “Silk Road Economic Belt,” or the twenty-first-century “Maritime Silk Road,” the BRI is comprehensive in scope and an essential component of the CPC’s twin objectives of achieving national rejuvenation and restoring China as a great power.¹⁹ The BRI now spans three continents, and “more than sixty countries—accounting for two-thirds of the world’s population—have signed on to projects or indicated an interest in doing so.”²⁰

The participation of African countries, such as Kenya, Ethiopia, Ghana, and Nigeria in the BRI²¹ has preoccupied much of the broader discussion on China’s role in the international community among academics and legal experts.²² Concerns have been raised over the degree to which local laws are respected and business regulations are maintained, as well as issues with the transparency, or lack thereof, surrounding relevant contract agreements that have arisen in the governmental relationships between China and African nations.²³ However, China’s BRI

17. Huang, *supra* note 14, at 176.

18. Christopher K. Johnson, President Xi Jinping’s “Belt and Road” Initiative 1 (2016), <https://www.uschina.org/sites/default/files/President%20Xi%20Jinping%27s%20Belt%20and%20Road%20Initiative.pdf> [<https://perma.cc/LQ3L-RTGT>].

19. Paul Nantulya, Implications for Africa from China’s One Belt One Road Strategy, Afr. Ctr. for Strategic Stud. (Mar. 22, 2019), <https://africacenter.org/spotlight/implications-for-africa-china-one-belt-one-road-strategy> [<https://perma.cc/H7GG-V5VF>].

20. Andrew Chatzky & James McBride, China’s Massive Belt and Road Initiative, Council on Foreign Rels., <https://www.cfr.org/background/chinas-massive-belt-and-road-initiative> [<https://perma.cc/EZ6N-5T7P>] (last updated Jan. 28, 2020); see also Nantulya, *supra* note 19.

21. Countries of the Belt and Road Initiative (BRI), Green Belt & Rd. Initiative Ctr., <https://green-bri.org/countries-of-the-belt-and-road-initiative-bri> [<https://perma.cc/MT3Z-4Q77>] (last visited Sept. 16, 2020).

22. See Perspectives on South Africa-China Relations at 15 Years 118 (Funeka Yazini April & Garth Shelton eds., 2014) (“There has been much renewed interest in China’s engagement with the African continent in recent years . . . primarily focused on China’s economic engagement . . . in the form of direct investment.”).

23. See Peter Fabricius, Is COVID-19 Enabling Debt-Trap Diplomacy?, Inst. for Sec. Stud. (Apr. 30, 2020), <https://issafrica.org/iss-today/is-covid-19-enabling-debt-trap-diplomacy> [<https://perma.cc/7BUG-FF5H?type=image>]; see also China: ‘Belt and Road’ Projects Should Respect Rights, Hum. Rts. Watch (Apr. 21, 2019), <https://www.hrw.org/news/2019/04/21/china-belt-and-road-projects-should-respect-rights> [<https://perma.cc/Z458-KXU5>].

has attracted participation from many nations, including Italy, a Group of Seven (G7) member.²⁴ Legal questions have become particularly significant in the context of China–Africa relations due to the unprecedented amount of financial investment China has undertaken in the form of loans and funding of infrastructure projects like the Mombasa–Nairobi Standard Gauge Railway in Kenya.²⁵ Moreover, as the migration of people between China and Africa has increased, disputes have multiplied between Chinese nationals and African citizens in African countries and in China.²⁶

Scholars at U.S. law schools and other institutions continue to debate the extent to which the legal interests of Black individuals in China are protected, whether agreements African governments have with the Chinese government are fair deals, and whether Black state actors’ interests converge with those of Chinese state actors.²⁷ Largely absent from global coverage of this debate, however, are the voices and perspectives of individual Black scholars and legal practitioners, many of whom have direct experience dealing with these issues and would offer critical and valuable cultural perspective and analysis of the legal issues relevant to Sino–Black relations.²⁸

II. WHY U.S. LAW SCHOOLS SHOULD PROMOTE INCLUSION

U.S. law schools have not actively addressed the lack of Black participants in their Chinese legal studies programs despite the compelling evidence that Black scholars would improve and deepen the value, quality, and capacity of scholarship in these programs. In 1950, the

24. See Federiga Bindi, *Why Did Italy Embrace the Belt and Road Initiative?*, Carnegie Endowment for Int’l Peace (May 20, 2019), <https://carnegieendowment.org/2019/05/20/why-did-italy-embrace-belt-and-road-initiative-pub-79149> [<https://perma.cc/H9YM-MBMJ>].

25. See Kate Hairsine, *Kenya Struggles to Manage Debt for Railway to ‘Nowhere’*, Deutsche Welle (Oct. 18, 2019), <https://www.dw.com/en/kenya-struggles-to-manage-debt-for-railway-to-nowhere/a-50887431> [<https://perma.cc/3MSW-L6WN>].

26. See Eric Olander, Cobus van Staden & Viola Rothschild, *Chinese Racist Views Towards Blacks and Africans: A China in Africa Podcast*, ChinaFile: The China Afr. Project (May 27, 2015), <https://www.chinafile.com/library/china-africa-project/chinese-racist-views-towards-blacks-and-africans> [<https://perma.cc/4W6Y-CTNQ>].

27. See, e.g., *Passion and Tension Between China and Africa*, Duke L.: Events (Feb. 19, 2020), <https://law.duke.edu/events/passion-and-tension-between-china-and-africa> [<https://perma.cc/5HN2-GFLR>]; see also Yu-Jie Chen, *China’s Challenge to the International Human Rights Regime*, 51 N.Y.U. J. Int’l L. & Pol. 1179, 1218 (2019). (“Many have criticized China’s BRI for being a ‘debt trap’ for developing countries, but not enough attention has been given to how the China Solution may be detrimental to developing countries because of the price of its human rights violations.”).

28. As one such Black Africa–China-relations scholar, Bulelani Jili, points out, power imbalances between African nations and China should “inspire judicious skepticism.” Yet, “such fears should not rest on assumed [Black] ineptitude”—especially when, in some instances, African governments exercise more adept agency than is purported. Bulelani Jili, *Locating African Agency in Africa-China Relations*, Elephant (Apr. 30, 2020), <https://www.theelephant.info/op-eds/2020/04/30/locating-african-agency-in-africa-china-relations> [<https://perma.cc/33U6-PDNG>].

Supreme Court ruled in *Sweatt v. Painter* that Sweatt, a Black man, had to be admitted to UT–Austin School of Law because the separate law school created to accommodate him was not equal in, among other things, intangibles.²⁹ These intangible considerations included, but were not limited to, reputation and that Sweatt would be “removed from the interplay of ideas and the exchange of views” with members of the racial groups that made up the then majority, eighty-five percent, of the population of the state.³⁰ This ruling by the Supreme Court came before it decided *Brown v. Board of Education*, overturning the legality of racially “separate but equal” education,³¹ and before Congress passed Title IX of the Education Amendments of 1972, making it illegal for federally financed programs or activities to engage in sex discrimination.³² In the years since these desegregation measures were taken, the importance of diverse perspectives in education, particularly legal education, has been further emphasized.³³ Indeed, the study of law in general has benefited from the inclusion of diverse perspectives,³⁴ and the purposes of many fields of study, including Sinology, have been critiqued and altered mainly by scholars and practitioners of increasing racial and gender diversity.³⁵ Although Black scholars have long had a keen interest and growing presence in the field of Chinese studies overall (despite numerous institutional barriers³⁶), Chinese legal studies programs at U.S. law schools have lacked the broad participation of Black scholars and legal experts since the first program was established by Harvard Law School in 1965.³⁷

29. 339 U.S. 629 (1950).

30. *Id.* at 634.

31. *Brown v. Bd. of Educ. of Topeka*, 347 U.S. 483, 495 (1954).

32. Education Amendments of 1972, Pub L. No. 92-318, §901, 86 Stat. 235, 373–74 (codified at 20 U.S.C. § 1681 (2018)).

33. See, e.g., Cruz Reynoso & Cory Amron, Diversity in Legal Education: A Broader View, a Deeper Commitment, 52 *J. Legal Educ.* 491, 492 (2002) (“[L]aw schools have employed a variety of strategies to reverse the historical exclusion of women and people of color from their institutions . . .”).

34. See, e.g., Kevin R. Johnson, The Importance of Student and Faculty Diversity in Law Schools: One Dean’s Perspective, 96 *Iowa L. Rev.* 1549, 1551–63 (2011).

35. See, e.g., Leith Mullings, Interrogating Racism: Toward an Antiracist Anthropology, 34 *Ann. Rev. Anthropology* 667, 684–85 (2005) (arguing that the field of anthropology must better “confront the manner in which race, class, and gender shape the production of knowledge”).

36. See, e.g., Robert Fikes, Black Scholars Who Make a Specialty of Asian Studies, *J. Blacks Higher Educ.*, Summer 2002, at 104, 104–08 (explaining how American stereotypes tend to place Black academics into particular areas of study).

37. East Asian Legal Studies Program, Harv. Univ., <https://worldwide.harvard.edu/east-asian-legal-studies-program> [<https://perma.cc/N24V-YE4K>] (last visited Sept. 10, 2020). Cf. Janice Gassam Asare, Why Are There So Few Professors of Color, *Forbes* (July 23, 2019), <https://www.forbes.com/sites/janicegassam/2019/07/23/why-are-there-so-few-professors-of-color/#25c998343e2e> [<https://perma.cc/Z9H8-6SF6>] (discussing the lack of Black faculty in higher education generally).

Unfortunately, Chinese legal studies programs run by U.S. law schools today often fall into the trap of facilitating research and discussions that produce siloed perspectives on Sino–Black legal relations, rather than multilayered ones. This state of affairs reifies a problem that postcolonial theorist Edward Said emphasizes in his analysis of textual representations of Asian people, geography, and culture in his 1978 book *Orientalism*, which is that secondhand representations can never be precisely realistic, especially when offered by those who distrust the authenticity of those who do not fit the mold of the traditional “Western expert.”³⁸ He writes, “From the beginning of Western speculation about the Orient, the one thing the Orient could not do was to represent itself. Evidence of the Orient was credible only after it had passed through and been made firm by the refining fire of the Orientalist’s work.”³⁹ Today, while discourse in the field of Chinese legal studies is often framed in terms of an East–West dichotomy when evaluating cultural and political differences that affect law, Chinese scholars and legal experts fully participate in discourse related to the studies of Chinese law and institutions in the United States and elsewhere, often challenging the traditional U.S. narrative of world events.⁴⁰ Black scholars and legal experts, however, remain without the opportunity to represent themselves in the Chinese legal studies programs at U.S. law schools.

In May of 2020, this author surveyed the 203 ABA-approved law schools in the United States by independently researching each one via their websites. The author found that only eighteen law schools host a permanent program, center, institution, or department dedicated to the aim of making Chinese legal studies a significant part of both the regular JD and LLM experiences, rather than almost purely study-abroad or LLM-only programs.⁴¹ The following table provides the titles of these select programs:⁴²

38. Edward W. Said, *Orientalism* 283 (Vintage Books ed. 1979).

39. *Id.* The use of the term “Orient” in reference to Asian people and culture was once generally accepted. Said was among the first to problematize its use. See, e.g., *id.* It is now generally used only to describe goods that come from Asia. See Linda Wertheimer, ‘Oriental’: Rugs, Not People, NPR (Sept. 2, 2009), <https://www.npr.org/templates/story/story.php?storyId=112465167> [<https://perma.cc/8WPU-7TZB>].

40. Chris Buckley, ‘Clean Up This Mess’: The Chinese Thinkers Behind Xi’s Hard Line, N.Y. Times (Aug. 24, 2020), <https://www.nytimes.com/2020/08/02/world/asia/china-hong-kong-national-security-law.html> (on file with the *Columbia Law Review*) (describing Chinese legal scholars, such as Tian Feilong of Beihang University’s Law School in Beijing, who have been outspoken in their opposition to liberal concepts of social order that are often characterized as “Western-inspired ideas,” such as the organizing of democratic elections).

41. ABA-Approved Law Schools, ABA, https://www.americanbar.org/groups/legal_education/resources/aba_approved_law_schools/in_alphabetical_order [<https://perma.cc/J8C6-2M4L>] (last visited Sept. 10, 2020).

42. Excluded from this number are almost purely study abroad and/or LLM-only programs, like Boston University School of Law’s JD/LLM study abroad program and Temple University School of Law’s LLM in Asian Law Program, wherein students must go

Law School	Program Title
Case Western Reserve University School of Law	East Asian Legal Studies Department ⁴³
Columbia Law School	Center for Chinese Legal Studies
Cornell Law School	Clarke Program in East Asian Law and Culture
Georgetown University Law Center	Center for Asian Law
Harvard Law School	East Asia Legal Studies Program
Indiana University Robert H. McKinney School of Law	The Joint Center for Asian Law Studies
New York University School of Law	The U.S.–Asia Law Institute
Stanford Law School	The China Guiding Cases Project
UC Hastings College of the Law	East Asian Legal Studies Program
University of California, Irvine School of Law	Long U.S.–China Institute
University of Hawai'i at Mānoa William S. Richardson School of Law	Pacific-Asian Legal Studies Program
University of Maryland School of Law	East Asian Legal Studies Program
University of Michigan School of Law	Chinese Legal Studies Center
University of Pennsylvania Law School	Center for Asian Law
University of Washington Law School	Asian Law Center
University of Wisconsin Law School	East Asian Legal Studies Center
Vermont Law School	The U.S.–Asia Partnerships for Environmental Law Program
Yale Law School	Paul Tsai China Center

abroad to a Chinese institution to receive credit or a specialized degree. See LL.M. in Asian Law, Temp. Univ., <https://www.law.temple.edu/academics/degrees/llm-asian-law> [<https://perma.cc/9UHQ-EN9G>] (last visited Sept. 18, 2020); Tsinghua University, Beijing, China, B.U. Sch. of L., <https://www.bu.edu/law/current-students/jd-student-resources/study-abroad/china> [<https://perma.cc/SZ9L-JC7D>] (last visited Sept. 13, 2020).

43. This author was unable to locate a landing page for this department, but according to Case Western Reserve University School of Law's Legal Research Guide, the school has an active director of Asian Legal Studies. See Faculty Biography: Professor Webster, Case W. Res. Univ. Sch. of L., <https://lawresearchguides.cwru.edu/c.php?g=818397&p=5867519> [<https://perma.cc/832T-GFJH>] (last visited Sept. 10, 2020); see also Archive of Case Global Newsletters, Case W. Res. Univ. Sch. of L., <http://case.edu/law/centers-institutes/cox-international-law-center/magazine-case-global-newsletter> [perma.cc/Z96P-A5VD] (last visited Oct. 24, 2020) (containing an archive of newsletters published on a yearly basis that include details of the department's developments, as well as that of other internationally focused programs).

While some of these programs are more able than others to attract and retain Black participants, it is worth summarizing some pertinent trends.⁴⁴ First, on a positive note, many have in place an institutional commitment to structures and components that could directly promote the inclusion of Black academic and legal experts, such as internship programs, fellowships, or other mentorship and development opportunities beyond research assistantship.⁴⁵ Second, on a less positive note, most of the programs do not display evidence of having cultivated ongoing communications and relationships with Black organizations or organizations with a significant Black student constituency, like Black law student associations.⁴⁶ Third, few of these programs have at least one permanent faculty member who self-identifies as Black,⁴⁷ the inclusion of whom would

44. For an example of how these programs should be outlining their plans to reach disadvantaged students, see Lori C. Townsend, Program Evaluation Plan for ONTL-5020: Introduction to Online Learning Course Offered by Governors State University 7 (2012), https://www.niu.edu/blackboard/students/portfolios/samples/layout2/content/a6ac5b07eff84687b710c9054efbf257/submission_files/4820/ETR531_%20Sample_EvalPlan.pdf [<https://perma.cc/6XN3-XBME>] (providing a list of stakeholders under consideration, an aspect of outreach of which many Chinese legal studies programs have a limited consideration); see also JP “Sandy” Ogilvy, Guidelines for the Self Evaluation of Legal Education Clinics and Clinical Programs, 15 T.M. Cooley J. Prac. & Clinical L. (Special Issue) 1, 135–67 (2013).

45. See, e.g., China Guiding Cases Project, Stan. L. Sch., <https://cgc.law.stanford.edu/get-involved/volunteer> [<https://perma.cc/9A47-DM8F>] (last visited Oct. 8, 2020) (allowing law students to apply to become editors of the CGCP, an organization devoted to advancing the understanding of Chinese law through events and bilingual publications produced under the guidance of senior editors); see also East Asian Legal Studies 50+, Harv. L. Sch., <http://www.law.harvard.edu/programs/eals> [<https://perma.cc/NHX8-28P2>] (last visited Oct. 8, 2020) (describing the Orrick Fellows Program, which “is designed to support students in the study of law and development in Africa, with a preference accorded to graduates of African universities and to projects focused on the China–Africa relationship”). Many have recognized such mentorship opportunities as crucial to establishing successful diversity programs. See, e.g., Janice Gassam Asare, *The Key to Diversity and Inclusion Is Mentorship*, *Forbes* (Sept. 26, 2019), <https://www.forbes.com/sites/janicegassam/2019/09/26/the-key-to-diversity-and-inclusion-is-mentorship> [<https://perma.cc/F3BF-CWGM>].

46. See, e.g., Chinese Legal Studies Program, Mich. L., <https://www.law.umich.edu/mlawglobal/curriculum/chineselegalstudies/Pages/default.aspx> [<https://perma.cc/25ZU-EURT>] (last visited Oct. 8, 2020) (showing no references to Black organizations in descriptions of the program’s past conferences and academic meetings concerning law and legal institutions in Greater China); see also Archive of Case Global Newsletters, *supra* note 43 (revealing no Black organizations involved with the East Asian Legal Studies Department’s past conferences and academic meetings concerning law and legal institutions in Greater China in newsletters dating back to 2013).

47. See, e.g., Center for Asian Law: Our Team, Geo. L., <https://www.law.georgetown.edu/law-asia/faculty-and-staff> [<https://perma.cc/EEX5-DQQR>] (last visited Oct. 8, 2020) (featuring no faculty team members who self-identify as Black by way of biographical note or independent statement); see also Pacific-Asian Legal Studies Faculty, Univ. of Haw. at Mānoa William S. Richardson Sch. of L., <https://www.law.hawaii.edu/Pacific-Asian-Legal-Studies-Faculty> [<https://perma.cc/DQR5-HW5Z>] (last visited Oct. 24, 2020) (listing no faculty that self-identify as Black by way of biographical note or independent statement).

be a crucial way they could promote and support Black scholarship and participation.⁴⁸ Fourth, participants who self-identify as Black are rarely included in program activities, events, and publications, if at all.⁴⁹ Fifth, in general, the programs do not demonstrate a specific investment in supporting Black visiting academics, experts, or practitioners who specialize in Chinese law, financially or otherwise.⁵⁰ Sixth, however, it is usually easy to access, lookup, or otherwise find and become involved with the program through the program's website.⁵¹ While this research methodology was not meant to be an exhaustive ranking of each program, it does accurately describe the limited capability of law schools to promote the inclusion of Black scholars and legal experts in their programs.

This methodology captures a snapshot of how some programs are doing and in what ways they can improve. Based on these results, this Comment argues that U.S. law schools must refine the framework of their Chinese legal studies programs, reevaluate the concept of expertise they endorse, and actively recruit Black scholars and legal experts left on the sidelines. While there are Black scholars at universities who are referred to as China experts, such as the journalist Howard W. French,⁵² the foregoing analysis illustrates the dearth of representation of Black faculty members

48. See Black Law Students and Faculty Assess the 'State of Black Georgetown' at Cross-Campus Event, Geo. L. (Mar. 9, 2020), <https://www.law.georgetown.edu/news/black-law-students-and-faculty-assess-the-state-of-black-georgetown-at-cross-campus-event> [<https://perma.cc/RPD4-98Z2>] (discussing how Black faculty members can mentor and encourage participation among Black students).

49. See, e.g., Paul Tsai China Center Events, Yale L. Sch.: Events, <https://law.yale.edu/china-center/events/2019-2020-schedule> [<https://perma.cc/9PFW-5CUR>] (last visited Oct. 8, 2020) (despite an extensive record of events going back over a decade, Black speakers have been invited only rarely in that history); see also EALS Prior Events, U.C. Hastings L., <https://www.uchastings.edu/2015/06/19/eals-prior-events> [<https://perma.cc/855H-BRJ9>] (last visited Oct. 24, 2020) (looking back to 2016, no self-identified Black speakers have been prominently featured in the school's history of activities).

50. See, e.g., Center for Asian Law – Visiting Entrepreneurs Program, Univ. of Penn. L. Sch., <https://www.law.upenn.edu/institutes/cal/visiting-entrepreneur.php> [<https://perma.cc/EU75-CAJG>] (last visited Oct. 8, 2020) (describing its initiative in relation to visiting legal scholars or professionals as focused on “[p]artnerships and relationships with law schools, and other legal institutions throughout China, India and Japan”); see also Visiting Scholars, Univ. of Wash. Sch. of L., <https://www.law.uw.edu/faculty/visiting-scholars> [<https://perma.cc/6EB8-8KLJ>] (last visited Oct. 24, 2020) (failing to stipulate any specific outreach to Black scholars or practitioners).

51. See, e.g., East Asian Legal Studies Center, Univ. of Wis.–Madison L. Sch., <https://law.wisc.edu/ealsc> [<https://perma.cc/P2RQ-KWZA>] (last visited Oct. 8, 2020) (requiring only a click on the website's “Faculty & Research” tab to see a list of the school's research centers, which include the East Asian Legal Studies Center); see also Joint Center for Asian Law Studies, Ind. Univ. Robert H. McKinney Sch. of L., <https://mckinneylaw.iu.edu/asian-law/index.html> [<https://perma.cc/GCP8-AGQ6>] (last visited Oct. 24, 2020) (clicking on the school's “Centers & Programs” tab allows for easy navigation to the program's landing page.).

52. See Howard W. French, Colum. Journalism Sch., <https://journalism.columbia.edu/faculty/howard-w-french> [<https://perma.cc/3C9H-2UCZ>] (last visited Sept. 18, 2020).

and students in Chinese legal studies departments. It appears that those who fit the traditional model of the Western China expert are privileged with opportunities to present themselves as experts, even when they lack qualifications,⁵³ while those that do not fit the model are at a disadvantage no matter what their qualifications are. Indeed, in considering the question of why there are not more African American scholars specializing in Chinese studies working in the United States, China, and Taiwan, Chinese legal scholar M. Dujon Johnson commented:

I have known well-qualified African-American Sinologist[s] who were just starting their careers. I knew some well and some not too well, who abandoned their profession because they could not get employment in the United States because employers refused to hire them as it related to China or Taiwan. I have also been personally told, as well as have heard, employers (white and Chinese) saying that they ‘. . . would never hire a Black person.’⁵⁴

In spite of all the challenges and obstacles, many Black scholars and legal practitioners remain interested in pursuing a career in the field of Chinese legal studies. Generally, Black scholars working in relation to or squarely within Chinese legal studies have long understood and practiced intersectional and interdisciplinary approaches and interventions,⁵⁵ just like their counterparts in the Latinx, Native American, women’s, and Asian American studies communities.⁵⁶ Although research and experts focused on the intersection of Chinese and Black ethnic groups exist,⁵⁷ little has

53. See, e.g., Robert Abad, EM+BRACE “Mentorship Series” Presents Shaun Rein, LinkedIn (Apr. 16, 2018), <https://www.linkedin.com/pulse/embrace-mentorship-series-presents-shaun-rein-robert-abad> [<https://perma.cc/ULA7-7A2T>] (mentioning that media outlets have quoted people as China experts who have barely any experience living in the country and do not speak any Chinese language); see also Melissa Chan, Trump’s Top China Expert Isn’t a China Expert, *Foreign Pol’y* (Mar. 13, 2017), <https://foreignpolicy.com/2017/03/13/peter-navarro-profile-national-trade-council-donald-trump-china-expert> (on file with the *Columbia Law Review*).

54. M. Dujon Johnson, Why Aren’t There More African-Americans Sinologist Working in the United States, China and Taiwan?, *Black Am. Law. China* (Jan. 25, 2010), <http://mdujon.blogspot.com/2010/01/why-arent-there-more-african-americans.html> [<https://perma.cc/PFM3-CSTV>]. M. Dujon Johnson is the first African American to have earned a Ph.D. in China and holds a J.D., M.A., and B.A. from institutions in the United States. Sara Kandel, Local Man Is First African-American to Earn Ph.D. in China, *C&G Newspapers* (Apr. 27, 2012), <https://www.candgnews.com/news/local-man-first-african-american-earn-phd-china> [<https://perma.cc/SPZ9-J8UC>].

55. See, e.g., Percy R. Luney, Jr., Traditions and Foreign Influences: Systems of Law in China and Japan, *52 L. & Contemp. Probs.* 129, 129 (1989) (“[W]hat I know about Chinese law comes from my study of the Japanese legal system.”).

56. See Safiya Umoja Noble, *A Future for Intersectional Black Feminist Technology Studies*, Barnard Ctr. for Rsch. on Women: Scholar & Feminist Online (2016), <https://sfonline.barnard.edu/traversing-technologies/safiya-umoja-noble-a-future-for-intersectional-black-feminist-technology-studies> [<https://perma.cc/5ZSN-Z35J>] (“Intersectionality was developed by many feminist, antiracist scholars and activists of color as a framework for deepening an analysis of power and oppression across multiple axes.”).

57. See, e.g., Daniel Clarkson Fisher, *Voices from the Chinese Jamaican Oral History Project*, *Oral Hist. Rev.* (2019), <https://oralhistoryreview.org/current-events/voices-from->

been done to integrate these into the structures of Chinese legal studies programs at U.S. law schools. Regardless of the cultural hegemony that pervades many historically white U.S. law schools,⁵⁸ Chinese legal studies remain an important area of interest for Black scholars and legal experts because Chinese legal studies cover issues overlapping with Black communities.⁵⁹ Black scholars want and need to be a part of shaping and impacting this field of study at U.S. law schools.

Although Black scholars and legal experts have played a significant role in developing international law and legal institutions, the lack of acknowledgment and recognition of their role in historical and current world events has encouraged an Othering⁶⁰ of Black people within the field of Chinese legal studies and Sinology at large.⁶¹ A survey of work by Black practitioners and scholars demonstrates that there is a broad and diverse range of people who would be appropriately labeled as China experts if not for artificial and subjective barriers that result in untapped talent at U.S. law schools.⁶² In-depth familiarity with Chinese legal issues, firsthand knowledge of the country, and an understanding of Mandarin, Cantonese, or one of the many other languages frequently used in China are attributes that should make up the basic definition of who can be considered enough of an expert to weigh in on Chinese legal studies debates. Therefore, law schools need to reconceptualize the idea of expertise. Creating an institutional framework to recruit such experts and scholars can help promote the inclusion of Black scholars and legal experts.

the-chinese-jamaican-oral-history-project [https://perma.cc/Q6NH-C7K4] (“[T]he Chinese Jamaican Oral History Project . . . allows a diverse and ever-expanding collection of [Chinese Jamaican] narrators to speak about matters of identity in their own way and in their own time.”).

58. See, e.g., Duncan Kennedy, *Legal Education and the Reproduction of the Hierarchy* 15 (2004). The exception to this would be historically Black institutions (HBIs), like Southern University Law Center and Howard Law School.

59. See *supra* Part I.

60. See John A. Powell, *Us vs. Them: The Sinister Techniques of ‘Othering’ and How to Avoid Them*, *Guardian* (Nov. 8, 2017), <https://www.theguardian.com/inequality/2017/nov/08/us-vs-them-the-sinister-techniques-of-othering-and-how-to-avoid-them> [https://perma.cc/GFD5-ZWXJ].

61. See Robeson Taj Frazier, *The East Is Black: Cold War China in the Black Radical Imagination* 12–15 (2015) (acknowledging the “invaluable and insightful” work of Black scholars that has been ignored through much of history).

62. In 2019, the author began compiling a directory of work by Black practitioners and scholars focused on mainland China, Hong Kong, Macau, and Taiwan. The work on this project is ongoing, and one can view the open directory online. Kori Cooper, *Work by Black Practitioners & Scholars Focused on Mainland China, Hong Kong, Macau, and Taiwan: An Open Directory*, *Black Voices, Black Perspectives on Greater China*, Google Docs, https://docs.google.com/spreadsheets/d/1ZHB2CnuGgqqgU1wPeijYAekWuyTIgqqd_dZj_PcqnUw/edit#gid=0 (on file with the *Columbia Law Review*) (last visited Nov. 10, 2020).

III. HOW TO BRING THE RIGHT APPROACHES TO SCALE

If U.S. law schools want to successfully incorporate Black scholars and legal experts into their Chinese legal studies program, they will need to make the inclusion of these scholars and their research a stated priority of their institutions and build a new framework of measurable and accountable steps toward achieving this goal.

U.S. law schools should actively solicit feedback from participants in their Chinese legal studies programs to bring the right approaches to scale.⁶³ Organizational allies like Black law student associations could be a source of suggestion and feedback for what U.S. law schools can do to effectively support and retain Black scholars and legal practitioners in their programs. Administrators will need to step in and conduct surveys and interviews. Good questions to ask might include: How does the idea behind this program resonate with you, if at all? What do you want to learn about the topic this program focuses on? How can this program feel more inclusive? What ideas do you have about what this program should be doing to reach more people who are not familiar with it or its focus? What are you deeply interested in, and why?⁶⁴

Furthermore, Chinese legal studies programs can become organizations that provide resources, networks, and events geared toward promoting greater exchange, diversity, and inclusion within the field by facilitating discussions involving a range of China-related topics that include Black creators, scholars, and professionals. As founder and manager of “Black Voices on Greater China,” a project at Columbia Law School focused on amplifying the voices and perspectives of Black scholars and legal experts,⁶⁵ this author has found such dialogue facilitates the creation of creative, informative, and engaging content for China studies scholars, students in the field, and practitioners, who thereby benefit from the insights that this project spotlights. People of all backgrounds should be welcome to consult on ideas, sponsor discussions, and volunteer their time creating, editing, sharing, and soliciting content. Black China studies experts should also be consulted directly. Events that facilitate such cross-sectional dialogues have begun occurring in recent months, as the Black Lives Matter (BLM) protests have swept the globe, drawing pro-democracy

63. For a framework on evaluating institutional programs, see Section 1. A Framework for Program Evaluation: A Gateway to Tools, Cmty. Tool Box, <https://ctb.ku.edu/en/table-of-contents/evaluate/evaluation/framework-for-evaluation/main> [<https://perma.cc/SGR4-26MS>] (last visited Sept. 13, 2020).

64. See John Lofland & Lyn Lofland, *Analyzing Social Settings: A Guide to Qualitative Observation and Analysis* 144–67 (2006) (outlining how one should go about asking questions in order to better understand a topic).

65. See Black Voices on Greater China, Facebook, <https://www.facebook.com/blackvoicesonchina> (on file with the *Columbia Law Review*) (last visited Sept. 19, 2020).

protesters in Hong Kong and BLM activists together in solidarity.⁶⁶ The protests also drew greater attention to targeted discriminatory acts against China's ethnic minorities, such as the mass internment, cultural oppression, and exploitation of Uyghurs—a Muslim ethnic group—in Xinjiang province.⁶⁷

Administrators and faculty affiliated with these programs should also seek alliances with individual Black scholars and legal practitioners who have a deep familiarity with Chinese law and legal institutions in order to better understand and support research that examines Sino-Black relations. Law schools could create a booklet to recruit Black experts in Chinese law and legal institutions to their programs, newsletters to communicate current research, activities, and engagement opportunities, and a support guide for Black students and scholars considering Chinese legal studies. In today's COVID-19 period, virtual interviews and meetings might be an effective way to make these connections.

In addition to programs, alliances, virtual sessions, and interviews, program administrators should be empowered to ensure that academic search committees do not reinforce inequalities by replicating themselves and their own biases. In relation, administrators and faculty should collaborate on creating inclusive legal learning communities and curriculum.

Programs could scale up in different ways. The focus should not be on speed but quality and what the “endgame is.”⁶⁸ For instance, one of the endgames for Vermont Law School's U.S.–Asia Partnerships for Environmental Law Program is that governments adopt their initiative or ideas.⁶⁹ Different programs will need to decide what their endgames are to scale efficiently. It could be that some want to remain an open source of knowledge, like University of California, Irvine School of Law's Long U.S.–China Institute,⁷⁰ while others hope to instigate cultural, political, or social

66. See J.S. & Promise Li, *The Hong Kong Movement Must Stand with Black Lives Matter*, H.K. Free Press (June 7, 2020), <https://hongkongfp.com/2020/06/07/the-hong-kong-movement-must-stand-with-black-lives-matter> [<https://perma.cc/84PF-JU8J>].

67. See Andrew Nachevson, *Brands Declare Black Lives Matter, but Activists See a 'Double Standard' in Asia*, Vice (July 2, 2020), https://www.vice.com/en_in/article/n7w3wq/brands-declare-black-lives-matter-activists-see-double-standard-asia [<https://perma.cc/M62C-HYGA>].

68. See Alice Gugelev & Andrew Stern, *What's Your Endgame?*, *Stan. Soc. Innovation Rev.*, Winter 2015, at 41, 41–42 (“An endgame is the specific role that a[n] [organization] intends to play in the overall solution to a social problem. [Organizations] . . . should measure their success by how they are helping to meet the total addressable challenge in a particular issue area.”).

69. See U.S.–Asia Partnerships for Environmental Law, Vt. L. Sch., <https://www.vermontlaw.edu/academics/centers-and-programs/us-asia-partnerships-environmental-law> [<https://perma.cc/E4T9-X8R8>] (last visited Sept. 28, 2020).

70. Podcasts, U.C., Irvine: Long US–China Inst., <https://www.longinstitute.uci.edu/projects/podcasts.php> [<https://perma.cc/2JDM-QTE9>] (last visited Nov. 20, 2020) (hosting a collection of a podcast, videos, webinars, and publications that the public can access).

change like Vermont Law School's program. They should factor in the desires and needs of Black students, scholars, and legal practitioners and consider them among their stakeholders.⁷¹ They should adopt the principle that no discussions or research involving Black subjects should happen without the involvement of Black individuals.

CONCLUSION

The future of Chinese legal studies involves a Black audience and a range of Black participants whose work is profoundly connected to the Greater China Region. The development of Chinese legal studies programs, with the restoration of U.S.–China diplomatic relations, was born out of the U.S. government's desire to further State interests by understanding China and demonstrates one way U.S. law schools have attempted to respond to the rise of China as a rival global superpower.⁷² These programs continue to evolve. Ideally, U.S. law schools will take proactive measures to close the knowledge gap in the field, such as inviting collaborators that will help center and bring attention to Black voices and perspectives on greater China. Ultimately, Chinese legal studies programs at these institutions ought to create events, conferences, and scholarships that reflect the true diversity of the field and thus enable a greater understanding of Sino–Black relations and appreciation for how Chinese law and legal institutions can and should function.

71. See generally Org. Rsch. Servs., *Theory of Change: A Practical Tool for Action, Results and Learning* (2004), <https://www.aecf.org/resources/theory-of-change> [<https://perma.cc/ZHP2-EJ83>] (describing the process of mapping social change in vulnerable communities through conversation and consultation with community stakeholders).

72. Center for Chinese Legal Studies: History, Colum. L. Sch., <https://chinese-legal-studies.law.columbia.edu/content/history> [<https://perma.cc/RJ4R-KNB6>] (last visited Sept. 19, 2020).