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**Exporting American Lawyers To China**

**By David Carnes**

A few decades ago there was hardly any such field as international law – only domestic law

representing clients with funny sounding names. Although that situation has changed, the globe is not yet as borderless as the media would have us believe it is. Nevertheless, US lawyers are heading to China in increasing numbers to practice "cutting edge" foreign investment law, and many of these adventurers are fresh out of law school. Conventional wisdom has it that heading overseas straight out of law school will ruin your career back home should you ever want to relocate stateside.

I beg to differ. I know of a young man who graduated from law school in the mid-nineties with a high GPA, fluency in Mandarin Chinese, and experience as a Summer Associate in the Beijing office of a major international law firm. He had caught the "Asia bug" and returned so fast that his diploma had to be mailed to him across the Pacific. Around the turn of the millennium he returned to the US to test out the theory that "you can't go home again". With only a few months of effort he was able to land a premium position as a delivery driver for Pizza Hut, making a full dollar an hour above minimum wage (plus tips!).

Let's get serious. Before you take a leap across the Pacific, take a look in the mirror and ask yourself this question: "Am I an `international Lawyer', or am I an `International lawyer'?" (note the differences in capitalization). What's Plan B in case practicing law in China falls through? Will you be practicing law in the United States, or will you be teaching English in China? What excites you about China law – China, or law?

Because when all is said and done, an office is an office whether it's in Beijing, New York, or London. And like it or not, the inside of an office is where the average lawyer spends most of his/her waking hours. Likewise, legal work is legal work; there's not any exciting difference between systems of business law whether you're consulting with clients and drafting documents in Mandarin Chinese, English, or Serbo-Croatian.

Then there's the Prestige Factor. It's very stylish these days for medium and large sized law firms to prattle on and on about "our China Office" – and what's more, a China office allows for the issuance of impressive-looking bilingual business cards. It's become such a potent status symbol that many firms (I

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strongly suspect) are holding on to money-losing offices in China just so they can keep Beijing on the list of cities where their firm has offices. Medium sized law firms in particular like to set up China offices to prove to their clients their status as Big Time International Players - sort of like the teenager who won't shave off his peach fuzz because it "proves I'm a man".

Better to forget about the prestige factor involved in practicing international law overseas. Holding a prestigious job is like marrying a fashion model - it's cool at first, but hey, law is a jealous mistress - after a couple of months the magic wears off and you're going to have to live with her day after day, for better or for worse.

Anyway, "our China Office" really means "our China Rep Office". Keep in mind that in China, representative offices may not engage in profit-generating activities. So how do US law firms get away with it? To be sure, a few of them are mostly engaged in the Western legal side of sophisticated cross-border transactions (and thus not generally in the market for new graduates), but the rest are

practicing Chinese law illegally. They get away with this in Beijing and Hong Kong (not so often in Shanghai) because the Chinese authorities turn their heads, ignoring the wounded howls of jilted (and well-qualified) Chinese lawyers. The reality is that many foreign investors still feel more comfortable retaining US lawyers even though top Chinese lawyers are far better able to understand legal and linguistic nuances that American lawyers are likely to overlook.

In other words, US lawyers are tolerated by the Chinese authorities because they help attract foreign investment. When the English language ability of Chinese lawyers improves enough to inspire greater confidence among foreign investors, the Chinese government may start rolling up the welcome mat under the feet of American lawyers. And it won't even take a new law to throw them out - only enforcement of existing law. Imagine the spectacle of former China investment lawyers returning to the US wearing sandwich boards reading "Will Litigate for Food". Don't get caught in mid-career all dressed up with no place to go.

The good news is, there is a loophole: China allows legal advisors who are not admitted to the local bar association to work in certain jobs that would require bar membership in the US. Included among such positions is corporate counsel - at their best, 9 to 5 jobs that come with six-figure incomes. In case six figures isn't enough for you, these positions often provide opportunities for greater wealth as the company grows - stock options, for example.

Forget the international law firms doing the big sexy deals. If you are dead-set on China law, then grind out 2-4 years of business law experience in the US, and look for a job in the legal department of the China office of a Western multinational.

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