



**TESTIMONY OF JEFFREY S. LEHMAN
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BEFORE

**THE SUBCOMMITTEE ON
AFRICA, GLOBAL HEALTH, AND HUMAN RIGHTS**

OF

THE COMMITTEE ON FOREIGN AFFAIRS

OF

THE UNITED STATES HOUSE OF REPRESENTATIVES

At a Hearing on the Subject:

**“Is Academic Freedom Threatened
by China’s Influence on U.S. Universities?”**

June 25, 2015

Chairman Smith and Members of the Subcommittee, I thank you for the opportunity to testify this morning about the opportunities that are created when an American research university develops a strong presence in China.

My name is Jeffrey Lehman, and I am testifying in my capacity as the vice chancellor of NYU Shanghai. NYU Shanghai has just completed its second year of activity as the third degree-granting campus of New York University.

I shall begin by describing my own experiences over the past seven years leading academic institutions inside China that are committed to principles of academic freedom. I will then provide a brief overview of NYU Shanghai. In the most extensive part of my testimony, I will discuss the reasons why a great research university like New York University would accept the challenge of creating a degree-granting campus in Shanghai. Next, I will address some of the concerns voiced by those who believe it is inappropriate for American universities to teach and conduct research in China. Finally, I will discuss one way that the United States government can be of assistance in this regard.

I. My Personal Background in China

Before coming to NYU, I served as a law clerk to Judge Frank Coffin at the U.S. Court of Appeals for the First Circuit and to Justice John Paul Stevens at the Supreme Court, as a tax lawyer here in Washington, as a professor of law and public policy at the University of Michigan, as the dean of the University of Michigan Law School, as the president of Cornell University, as a senior scholar at the Woodrow Wilson International Center for Scholars.

I moved to China in 2008, because the president and vice president of Peking University asked me to help them found a new law school as part of that university, the School of Transnational Law (“STL”). STL would teach law in the American style, using the Socratic method to study U.S. law, Chinese law, and international law, in a program that would lead both to a traditional J.D. degree and to a Chinese J.M. degree. This was to be the newest element in China’s effort to carry out small experiments with approaches to higher education that are different from the approaches generally used at Chinese universities.

I resisted the idea at first, as I was not a student of China, I did not speak any Chinese, and I was unfamiliar with the operations of a Chinese university. Eventually, however, I decided to take on the project, significantly at the urging of Justice Anthony Kennedy of our Supreme Court, and of the Chairman of the C.V. Starr Foundation, Hank Greenberg, each of whom stressed my patriotic duties as an American to help the rule of law continue to develop in China. I accepted Peking University’s request, but only on the conditions that I would have absolute control over the school’s curriculum, faculty, teaching style, and operations, and that I would receive an ironclad guarantee that I could operate the school according to the principles of academic freedom that were

fundamental to my own experience of higher education throughout my career in the United States.

Those conditions were fully honored during my time at STL. Students took classes with leading law professors from Harvard and Stanford and Michigan and Virginia, and a former senior lawyer at the U.S. State Department. They studied American constitutional principles with Mark Rosenbaum, the legal director of the American Civil Liberties Union of Southern California, and learned about international criminal and human rights tribunals from Mike Greco, past president of the American Bar Association and Chair of the Advisory Council of the ABA Center for Human Rights.

I had the privilege of serving as a member of the United States delegation to the U.S.-China Legal Experts Dialogue in 2011 and again in 2012, and of discussing my experiences with our students at STL. Later in 2012, I took on the responsibilities of being the founding vice chancellor of NYU Shanghai.

II. An Overview of NYU Shanghai

NYU Shanghai is a unique institution.

On the one hand, it is a full, degree-granting campus of New York University. All degrees are awarded by the trustees of New York University, in full compliance with the accreditation requirements of the Middle States Association. On the other hand, it is, like STL, also part of the effort inside China to carry out small experiments with approaches to higher education that are different from the approaches generally used at Chinese universities, legally chartered as the first Sino-American Joint Venture University.

The creation of NYU Shanghai followed a similar pattern to that involved in the creation of STL. NYU agreed to participate on the conditions that it would have absolute control over the school's curriculum, faculty, teaching style, and operations, and that it would receive an ironclad guarantee that it could operate the school according to the fundamental principles of academic freedom. NYU also required that the school operate in compliance with a 14-point statement of labor values.

As vice chancellor, I am charged with running the university's academic and academic support operations. I serve at the pleasure of the president of New York University. Because the graduates of NYU Shanghai will receive NYU degrees, NYU has exclusive and final responsibility over faculty appointments, curriculum, student admissions, etcetera.

We have structured our school so that half the undergraduates come from China, and half come from the rest of the world. Every Chinese student has a non-Chinese

roommate, and vice versa. Every day is therefore an intense education in what it means to be part of a multicultural world.

NYU Shanghai delivers an undergraduate liberal education in the humanities, social sciences, and natural sciences, promoting the skills of critical and creative thinking. All of our undergraduate students pursue a core curriculum in Shanghai for two years, spend their junior year studying at other NYU sites – the campuses in New York and Abu Dhabi or global academic centers in eleven other cities around the world. The students then return to Shanghai to complete their degrees. In addition to the rich experiences it provides undergraduates, NYU Shanghai is a research university with graduate programs and research institutes in domains ranging from social development to neural science to financial risk.

Our faculty includes tenured and tenure-track faculty whose appointments are at NYU Shanghai, as well as tenured and tenure-track faculty whose appointments are at other NYU campuses. In addition to being approved by our provost, Joanna Waley-Cohen, and by me, all of these appointments must also be approved by the Provost of New York University. We also have exceptionally talented faculty who are hired to fixed-term contracts, and visiting professors from other NYU campuses and from other top universities around the world. (I have attached to this testimony, as Appendix 1, a list of faculty who are teaching and who have taught at NYU Shanghai, so that you might have a sense of the extraordinary quality of our professors.)

III. Having a Campus in Shanghai Is Important to NYU's Mission

Let me quickly lay to rest one misconception about NYU Shanghai. NYU does not profit financially from its activities in Shanghai. It is designed to operate as a “tub on its own bottom,” neither subsidizing the rest of NYU nor being subsidized by the rest of NYU.

Why, then, has NYU undertaken such a complex endeavor? Two reasons stand out.

First, NYU Shanghai advances NYU's bold redefinition of how a university can be structured. Traditionally, higher education was experienced by attending a university that was located in a single place. Sometimes a university would operate several campuses, but they would be distinct institutions. Sometimes a university would operate a “study abroad site,” but those would exist only as satellites to receive students from the mother ship for a semester or two.

In the twenty-first century, however, the phenomena of globalization and technological advancement have created new challenges and new opportunities for humanity. We in America are much more directly affected by developments in other

parts of the world than ever before. The world's challenges are our challenges. We have a greater stake than ever before in how the rest of the world develops.

In order to more effectively fulfill its academic mission in the twenty-first century, NYU has created an impressive global network of campuses and academic centers located in important cities around the world. NYU expanded globally with the understandings (a) that students could enter its network through more than one degree-granting doorway, and (b) that a key part of students' education would involve spending a semester or two studying in countries other than their degree-granting base. Currently, students can enter NYU through its degree-granting campuses in New York, Abu Dhabi, and Shanghai. In addition to these locations, NYU students can study in Accra, Berlin, Buenos Aires, Florence, Madrid, London, Paris, Prague, Sydney, Tel Aviv, and here in Washington, D.C.

That idea of a truly global education is attractive to students who want to prepare themselves to be effective in an increasingly global world, as well as the faculty who will help them acquire that preparation. And Shanghai is a superb location in which to locate a degree-granting campus within NYU's global network. China is an extraordinarily important, rapidly changing country, and as China's commercial capital Shanghai is New York's natural counterpart. It is vitally important that the next generation of America's best and brightest students have an opportunity to learn how to work effectively there.

Second, NYU Shanghai provides NYU with an essential opportunity to reflect deeply about what knowledge, skills, and virtues this generation of students requires in order to lead lives of satisfaction and contribution. NYU Shanghai is a place where NYU can experiment with new ways of developing those qualities, such as having every student live with a roommate from another country, and making use of new forms of teaching technology.

Through our core curriculum, we push our students hard along these dimensions. We force every student to stretch, to think of the world from different perspectives, to see how different intellectual tools can help us to understand it differently. They carry those lessons with them throughout NYU's global network, when they travel abroad from Shanghai to study at NYU's other global sites with other NYU students.

I personally have the opportunity to see the success of these efforts because I teach the course that all students are required to take during freshman year, a course called "Global Perspectives on Society." This is an intellectual history course in which students engage a set of great books from western civilization, as well as a set of great books from eastern civilization. In this course I have helped the students to engage the writings of Plato, Aristotle, Thomas Aquinas, Kant, Locke, Hobbes, Rousseau, Bentham, Mill, Adam Smith, Montesquieu, Darwin, Marx, Freud, Virginia Woolf, Woodrow Wilson, Gandhi, Hayek, Martin Luther King, Robert Nozick, Rachel Carson, Thomas Piketty, Anthony Appiah, as well as the first nine chapters of the Book of Genesis. We

have also had the opportunity to read Confucius, Mencius, Mozi, Sun Zi, Sima Qian, and Mao Zedong. These are the same readings I would use if I were teaching the course in New York. In Appendix 2 to this testimony, you will find the complete syllabi of this course from the first two years in which I taught it.

IV. NYU Shanghai Helps to Advance International Norms of Intellectual Inquiry

People who care about higher education are very interested in NYU Shanghai. We are pioneering a new approach to twenty-first century higher education, and we believe that our graduates will be prepared to contribute in entirely new ways to the development of a world where people from different cultures can cooperate to address challenges and opportunities, and can forestall conflict and misunderstanding.

For that reason, we receive a constant stream of visitors to our campus – on average dozens every week. If any members of this Subcommittee or their staffs should visit China in the future, we would be delighted to welcome them to our campus, so that they can have the opportunity to observe, and to speak with our students, our faculty, and our administrative staff. There is simply no substitute for first-hand observation.

Of course, it is understandable for people who have not been able to visit to wonder about what it is like to operate a university like ours inside China. And I have on several occasions encountered suggestions by such people that it is somehow inappropriate for NYU to be present in China.

Such suggestions might be divided into two groups. The first group includes a variety of absolutist positions, to the effect that no American university should be present in China at all. One such position alleges that such a presence serves to “legitimate” government practices we do not approve of. A second such position alleges that government practices outside the campus necessarily make it impossible to offer a genuine liberal education inside the campus. A third such position alleges that no coherent understanding of academic freedom fails to include unrestricted freedom to advocate peacefully in favor of change in the larger society.

A second group of criticisms is more nuanced. These arguments suggest that, although it might be possible to operate a university appropriately inside a society that has features of which we disapprove, it would be very easy to go astray in a country like China. Accordingly, they argue that it would be better to stay away entirely than to run the risk of error.

At the end of the day, I do not believe any of these suggestions holds up under scrutiny.

In the first instance, these positions ignore the benefits of engagement. Our universities are properly sources of enormous pride for America. They nurture skills and

values that help students to be productive citizens, contributors to the well-being of their societies. They nurture an ability to see things from different perspectives. We are all better off if American students have the opportunity to learn about China while studying at a university that embraces NYU's value system.

Significantly, however, American students are not the only ones who stand to benefit from NYU Shanghai's presence. China is in the middle of a period of astonishing change. Within Chinese society there is heated debate about what direction change should take over the next two decades, and about what goals should take precedence over others. Some prominent individuals are asserting that China should not draw inspiration from the values and practices of universities outside China, while others are arguing strongly in favor of those same values and practices.

This latter group will benefit if they can point to the positive impact of schools like NYU Shanghai on Chinese students. And since the values and practices of such schools promote norms of mutual respect and understanding across national borders, the entire world can be said to have a stake in their success.

I do not believe any of the critiques I have mentioned come close to offsetting those benefits. The more absolutist positions make inaccurate assumptions about the relationship between American universities and the larger society. American universities were not established on a firmament of perfect respect for human dignity. Liberal education and academic inquiry are not fragile flowers that can survive only in perfect soil. To the contrary, America's best universities were established in a flawed land, one of whose greatest virtues was its commitment to improvement, to form a more perfect union. Precisely because those universities are hardy defenders of academic freedom and liberal education, they have been important contributors to America's progress. (I discussed these issues at length in a speech at Columbia University, a speech that I attach as Appendix 3.)

The less absolutist positions, however, are more reasonable, and point to a set of questions that we take seriously. A university such as ours cannot function if students and faculty are not free to ask questions, and to entertain arguments, that might be disruptive and even offensive to others. The search for understanding must be allowed to proceed unimpeded, down blind alleys and unproductive pathways, against the headwinds of conventional wisdom and ideological correctness. Norms of civility may be imposed, but they must not cut off genuine and rigorous inquiry.

At NYU Shanghai we are vigilant in assuring that these principles of academic freedom are honored every day. So far, so good. But if circumstances were to change and those principles were abrogated, NYU Shanghai would have to be closed down.

Sometimes people ask me why NYU Shanghai does not file public statements criticizing the Chinese government for one or another action or policy. We do not do so because that is not our role in China, any more than it is in the United States. The fact that a government has acted deplorably does not mean that a university has an institutional duty to criticize it publicly. At the same time, there are sometimes occasions when a government acts, or proposes to act, in ways that would prevent a university from fulfilling its mission. When that happens, the university should act in whatever ways (public and/or private) it believes are most likely to be effective in forestalling the action in question. (I discussed these points at greater length in an essay published in the Chronicle of Higher Education, attached as Appendix 4.)

One example of such an occasion arose last month, when China promulgated a draft law entitled, “The Non-Mainland Non-Governmental Organization Management Law of the People’s Republic of China.” The proposed law would seriously undermine the ability of universities like NYU to operate in China according to principles of academic freedom. Accordingly, NYU joined with eleven other universities in filing critical comments with the Chinese government. I attach those comments as Appendix 5.

Last weekend I told a Shanghaiese friend that I would be testifying here today. He asked why, and I explained that some people who value the free exchange of ideas believe American universities should not be present in China. His response was crisp and, I believe, quite apt: “If someone is truly committed to the free exchange of ideas here, they should want to see more schools like NYU Shanghai, not fewer.”

V. How the United States Government Can Help

It is in America’s best interest for China to develop along a path of constructive partnership with America, a path that recognizes the state of interdependence in which we now find ourselves. Such development is surely facilitated when our nations’ college students are able to acquire a deep and accurate understanding of China by studying in China, side by side with Chinese students, in an environment of academic freedom.

Almost thirty years ago, Johns Hopkins University spearheaded the creation of such an opportunity, through the Hopkins-Nanjing Center. Today, other institutions, like NYU and Duke, are following in Hopkins’s footsteps.

Unfortunately, programs such as these are so expensive that they would be beyond the means of many American students if it were not for financial aid opportunities underwritten by generous private donors. It is unlikely that the generosity of philanthropists will keep pace with the need.

I would therefore respectfully ask that Congress consider creating a scholarship program to ensure that students from families of modest means are able to study abroad at programs like NYU Shanghai, in countries like China.

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In this testimony, I have attempted to provide the Subcommittee with useful information about NYU Shanghai, and about why a great American research university would accept the challenge of creating such an institution. Projects such as these cannot be undertaken risk-free. I firmly believe, however, that with proper care they can be undertaken in ways that promote the highest academic values and carry a significant likelihood of contributing to the ongoing progress of humanity.