

IN MEMORY OF PROFESSOR HAROLD BERMAN

*David Sun**

Professor Harold Berman passed away on November 13, 2007, in New York due to illness after failing to respond to medical treatment. Learning the news, I was so astonished that I was totally at loss for quite some time. Recalling the happy and intimate association with him for the past two years, I could not help but shed tears. The Chinese legal community, just like me, were also deeply grieved and sorry for the loss of such a distinguished jurist and legal educator.

Though not many ordinary Chinese know Professor Berman, he is well known in the Chinese legal community. Chinese scholars came to know him through his great works, *Law And Revolution* and *Law And Religion*, in which he expounded and elaborated his concept of belief in law and the process of the formation of the Western legal tradition. His idea of belief in law had had a great influence upon a whole generation of young Chinese scholars. To a certain extent, it was his notion of belief in law that led a revolution of the idea of law in China. His unique analysis of the formation of the Western legal tradition started from the Papal Revolution; his research expanded people's vision in their studies of law and also broadened people's visions of history; he proposed the approach of history and religion in interpreting law; it seemed to him that it was in history that law is interpreted; he exposed profoundly, from the six significant revolutions happened in the Western history, the law of the formation of the Western legal tradition; to address the crisis that the Western legal tradition is facing, he set forth a scheme of resolution—that is his idea of world law. I believe that in many Chinese law schools, these two masterpieces are on the mandatory reading list.

I myself was lucky to get acquainted with Professor Berman in his late years and became one of his intimate Chinese friends. In 2005, my former colleague, Dr. Qingkun Xu, was visiting Emory University School of Law. Through his introduction, I got in touch with Professor Berman. Shortly thereafter, I extended him an invitation, hoping he could pay a visit to Shandong University when he found it convenient. Unexpectedly, he quickly

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responded and happily accepted my invitation. On May 8, 2006, he and his wife arrived in Beijing. Just an hour later, I also arrived in Beijing from Denmark. We met each other in the Beijing airport. I accompanied them to Jinan, Shandong, where Shandong University is located. In the next weeks, we met everyday and became good friends. I attended most of his lectures on world law and the Western legal tradition. I arranged a visit to Confucius's hometown, Qufu, a very nice ancient town. When he finished his visit at Shandong University, I accompanied him to Zhejiang University for another short visit. In Huangzhou, we spent a few more happy days.

Professor Berman's lectures were always well attended and well received. His erudite knowledge and amiable attitude impressed the audience deeply. To questions asked, he liked to answer everyone; as to the request made by audience members for signatures as a souvenir, he liked to meet every one. What impressed me the most about Professor Berman was that he stressed the accurate expression of rule of law. He was not satisfied with Russian President Putin when he stated "rule of zakoh." He thought it should be "rule of prava." The Russian word *prava* was very hard to translate. We all know that in almost every Western language, except English, there are two words for law, such as *loi* and *droit* in French and *gestez* and *recht* in German. Professor Berman patiently explained to me the difference between these terms and, on many occasions, consulted me about the equivalent term in Chinese. Unfortunately, due to the different culture and legal tradition, there is no such term in Chinese, though there are some similar terms in Chinese, such as *dao*, *tianli*, and *gongli*. However, these are moral terms, rather than legal terms. Anyway, I think I understood what he tried to convey. Law dictates its belief. But the law that people believe in or have faith in must have its own inherent value, not just because of the fact that it derives or comes from the state. Such an understanding is consistent with Professor Berman's lifelong notion of belief in law. For the Chinese people who lack a tradition of belief in law and are constructing the rule of law now, such an idea is especially significant.

Early last year, I came to visit Vanderbilt University at the invitation of the Associate Dean, Professor Julie Sandine. While I was at Vanderbilt, Professor Berman enthusiastically invited me and my former colleague Professor Liping Wang (who was visiting Harvard Law School as a Fulbright Scholar) to visit Emory University School of Law. What was moving to me was that he personally came to the Atlanta airport to meet me. He arranged for me to give a lecture on *Construction of Rule of Law in China: Achievements and Challenges*. He also introduced Dean Partlett, Professor Fineman, and his

other colleagues to me. In a farewell dinner, he discussed with me the ways in which he could further help me with my Center for American Legal Studies. After dinner, we hugged and said goodbye to each other. The visit to Emory was short, but warm and exciting. I planned to come back soon to see this old man I love and respect so much. Unexpectedly, we had parted ways forever. Even today it is still hard to for me believe that he left us forever.

The news that Professor Berman died spread quickly in China. *South China Weekend*, a well-known academic weekly, published a group of tributes to him; such tributes in various blogs have been even more prevalent. People in various ways commemorated this great jurist who made great contributions to both legal education and legal study. It seems to that one of the best ways to commemorate Professor Berman is to continue and strengthen the exchanges and communication between the Chinese and American legal communities and to make greater efforts for the construction of the rule of law in China. This, I think, is also what professor Berman hoped and expected for.

Professor Berman will always live in our hearts.

