

# U.S. Legal Practice Skills for International Law Students

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## Dedication

To Dr. J. J. Liou, who has done so much to foster greater understanding globally, especially in the field of education.

**HB**

To Kenneth and Caitlin, for motivation, inspiration, and support in all things.

**AMB**

And to our law students who have taught us many things, not the least of which is the joy of sharing new ideas and the power of the law to shape them.

**HB and AMB**

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# Preface

We began to develop the ideas for this book when we were teaching the legal practice courses at the Peking University School of Transnational Law in Shenzhen, the first American-style law school in China. Even with the great talent of the student body, it was clear that effort had to be expended to familiarize our students with both the nature of the American common law system, and the specifics of practicing law in the U.S. Our experience teaching international law students in the LL.M. program at the University of Michigan Law School, Ann Arbor, confirmed that these challenges also existed with students from western and even common law countries.

Before their immersion in the American legal system, students must be initiated in the mysteries of common law. The Latin phrases that denote common-law reasoning, *ratio decidendi*, *obiter dictum*, *causa actio*, only highlight the medieval and British hallmarks of the common law, now pressed into service of the modern American regulatory state, replete with statutes, codes, and ordinances. The U.S. has a unique system of dual state and federal sovereignty. The 50 states retain the widest latitude in enacting laws for the health, welfare, and safety of their residents but almost paradoxically defer to limited yet supreme federal law. The state and federal structures were built from compromises over democratic and republican, elite and egalitarian principles that characterized the debates over the ratification and amending of the U.S. Constitution. These state and federal constitutions, the oldest continually operating such documents in the world, frame the laws of a nation that now projects its commercial interests, jurisprudential principles, and legal sensibilities across the globe.

The education of the international law student cannot end with an understanding, however thorough, of the structures of American law and its content. Law students go out to practice. The highly developed professional and courtroom culture of the U.S. is integral to the practice of law but without systematic and detailed explanation can be opaque to law students and foreign practitioners. The culture of American lawyers as expressed in film and fiction is almost a world-wide phenomenon. But the day-to-day skills of practicing



lawyers can differ from their portrayal in the media and what emerges from law school casebooks. Even the most knowledgeable law student will be at a loss without learning such skills of modern communication as concise and to-the-point memo writing, counseling and negotiating, letter drafting and emailing, in the manner these and other skills are utilized in the law office and court system.

We have concentrated in this book on the fundamental skills necessary for practice in the U.S.—the “tool kit” of an American lawyer—and the details of practicing law in a firm setting. We express our appreciation for the lawyers and scholars who exchange ideas across borders on explaining the rule of law and best practices for the legal profession. We hope that this textbook makes a small contribution in that direction.

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