

COURT REFORM WITH CHINESE CHARACTERISTICS

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Abstract: In *Court Reform on Trial: Why Simple Solutions Fail*, Malcolm Feeley identified a number of obstacles that undermine reforms of the United States court system. Feeley's proposed solution was to adopt a problem-oriented "rights strategy"—letting the courts themselves solve their problems through litigation. This is because litigation is a forum in which courts are well placed to identify specific problems and devise pragmatic solutions. This Article takes a look at this proposition in the context of court reforms in China and concludes that courts (and law) are also a reflection of national goals and identity. Any reforms to a court system must not only take into consideration expectations and realistic goals, but also the fundamental identity of a particular legal system. In a top-down society like China, national goals—and hence, national identity—are defined by the Chinese Communist Party. Chinese courts have come a long way in their reforms and court reforms in China have often been couched in the language of national goals. Any proposed court reforms that challenge national goals and identity are doomed to fail.

Cite as: Margaret Woo, *Court Reform with Chinese Characteristics*, 27 WASH. INT'L L.J. 241 (2017).