SLEEPING WITH DRAGONS?

POLITICALLY EMBEDDED LAWYERS SUING THE CHINESE STATE

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In late April of 2012, unlicensed activist lawyer Chen Guangcheng, "escaped through the prison-like cordon surrounding his home and ended up hundreds of kilometres away in Beijing under American protection."[1] The incident drew international attention and, with United States Secretary of State Hilary Clinton negotiating on his behalf, Chen and his immediate family were allowed to immigrate to the United States.[2] Chen had been imprisoned in 2006 on charges of "intentionally damaging property and gathering a crowd to disrupt traffic

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1 *Blind Justice*, THE ECONOMIST, May 5, 2012, at 25.

2 Cheryl Isaac, *Checkmark For Hillary Clinton: Chen Guangcheng Lands in America*, FORBES (May 20, 2012), http://www.forbes.com/sites/worldviews/2012/05/20/checkmark-for-hillary-clinton-chen-guangcheng-lands-in-america/.

(故意毁坏财物罪以及聚众扰乱交通罪)."[3] Prior to his daring escape, he was under house arrest since his release in 2010.[4] The charges were in retaliation for suing overzealous officials in Shandong's Linyi prefecture on behalf of "thousands of local women who had been the victims of an aggressive family planning campaign that included forced sterilizations and abortions."[5] But Chen's true offense was probably publicizing the case when the courts ignored his appeal,[6] including interviews with *Time* magazine[7] and the *Washington Post,*[8] and public protests[9] by his supporters.[10] Chen's case exemplifies a common conception of Chinese lawyers[11] as activists who "use legal institutions and other platforms to challenge China's authoritarian system."[12]

While Chen is the leading example of what the West has come to view as a small group of dissent lawyers who promote human rights and oppose the State, he is an extraordinary example. Most Chinese lawyers do not grace the cover of *The Economist*, receive house visits from Hollywood stars,[13] or warrant the attention of the United States Secretary of State.

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3 *Shandong Blind Activist Chen Guangcheng was Sentenced to Four Years and Three Months*, RADIO FREE ASIA (Aug. 24, 2006), http://www.rfa.org/mandarin/yataibaodao/chen_guangcheng2-20060824.html.

4 Andrew Jacobs, *Christian Bale Attacked by Chinese Guards*, N.Y. TIMES (Dec. 15, 2011), http://www.nytimes.com/2011/12/16/world/asia/christian-bale-attacked-by-chinese-guards.html.; *Blind Justice*, *supra* note 1.

5 *Id.*

6 Li Baiguang (李柏光), *Lie Chen and between the Menglianggu Campaign*, EPOCH TIMES (Jul. 24, 2006), http://www.epochtimes.com/gb/6/7/24/n1397305.htm.

7 Hannah Beech, *Enemies Of the State?*, TIME, Sept. 12, 2005, at 58, 61.

8 Philip P. Pan, *Rural Activist Seized in Beijing*, WASH. POST (Sept. 7, 2005), http://www.washingtonpost.com/wp-dyn/content/article/2005/09/06/AR2005090600921.html.

9 *Shandong Blind Activist*, *supra* note 3.

10 It seems likely that Chen did not organize any protests himself and that no protests actually occurred until after he was arrested. *Examination into the Abuse and Extra Legal Detention of Legal Advocate Chen Guangcheng and His Family: Hearing Before the Congressional-Executive Commission on China*, 112th Cong. (2011) (statement of Jerome A. Cohen, Professor, N.Y. University School of Law).

11 Because Chinese law is relatively permissive about who can act as legal representation in court, Chen and several other well-known Chinese human rights "lawyers," including several law professors, are not licensed lawyers. While my data primarily reflects licensed lawyers, I have also conducted interviews with legal workers and law professors to address this deficit. Randall Peerenboom, *Economic Development and the Development of the Legal Profession in China*, *in* CHINESE JUSTICE: CIVIL DISPUTE RESOLUTION IN CONTEMPORARY CHINA 114, 133 (Margaret Y.K. Woo & Mary E. Gallagher eds., 2011).

12 Hualing Fu & Richard Cullen, *Climbing the Weiquan Ladder: A Radicalizing Process for Rights-Protection Lawyers*, 205 CHINA Q. 40, 41 (2011).

13 *See* Jacobs, *supra* note 4.

In this article, I closely examine the work of Chinese lawyers who sue the State, yet largely manage to stay out of trouble. While these lawyers are rarely visible abroad and are largely overlooked by scholars, they are probably more effective and certainly more numerous than Chen and those like him. Lawyers who represent plaintiffs in China's administrative courts are, by definition, adversaries of government. Yet, such lawyers tend to have the political savvy, connections, and willingness to compromise that keeps them out of trouble. In the words of one such litigator, a lawyer "should know what role to play (应该搞清自己的角色)."[14] The conditions under which they practice and their strategies for deploying law reveal much about the role of law in the post-Mao China as well as the politics of law and cause lawyering in less-than-democratic regimes.

This article is principally based on semi-structured interviews I personally conducted with 126 lawyers at randomly selected firms in Beijing, Shanghai, Ningbo, Changsha, Guilin, and a prefecture in rural Hunan. These randomly sampled interviews were supplemented by fifty-two nonprobability sampled interviews with former government officials, former judges, legal scholars, legal workers, foreign lawyers, and actual, as well as potential, plaintiffs. On the basis of these interviews, I am able to identify and describe the two types of lawyers who take the vast majority of administrative cases. Elsewhere, I constructed a statistical model based on a 2007 survey of Chinese lawyers that confirmed the representativeness of the findings from my interviews and helped me clarify the impact of different variables.[15]

This article takes the following form: first, it explains how my approach differs from other research on cause lawyers and rights defenders. Second, it gives a brief overview of China's courts and bar. Third, it examines China's administrative legal system and shows why administrative litigation offers a much more representative look at those challenging the State. Fourth, it shows that it is not their motives or ideology that set administrative litigators apart. Fifth, it introduces the two types of administrative litigators, the politically embedded lawyers whose close connections to the State facilitate them taking administrative cases, and the accidental litigators who are dragged into such cases

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[14] Interview with BJ21S in Beijing (July 2010); *See infra* app.

[15] John Wagner Givens, Suing Dragons?: Taking the Chinese State to Court, 200 (2012) (unpublished Doctoral Dissertation, Saint Antony's College, University of Oxford) (on file with author).

unexpectedly and sometimes unwillingly. The section on each type of lawyer ends by considering their impact. Six, I consider the lessons this approach provides for other contexts. Finally, I summarize the implications of this research, describing what kind of Chinese lawyers sue the State and why.

I. CONCEPTION OF LAWYERS

The conception of China's lawyers as opponents of an authoritarian State and advocates of political liberalism initially seems to have a firm foundation in history and theory. The legal profession, both directly through its support for political liberalization and indirectly through its efforts to improve rule of law, has long been associated with political liberalism and even democracy.[16] For example, Alexis De Tocqueville argued that an independent bar can be at the forefront of revolution: "[when the ruling class] closes its ranks against the lawyers, it finds them to be enemies all the more dangerous, because although beneath it in wealth and power, their work makes them independent."[17] This appears to fit in neatly with the current discourse about China, where privatization has superficially made the legal profession independent of the State[18] and led to "the emergence of the growing group of private lawyers who are developing profiles as rights protection lawyers-activists."[19]

Yet there should be reasons for doubt. De Tocqueville also recognized that

> in a community in which lawyers hold without question that high rank in society which is their due, their temper will be eminently conservative and will prove antidemocratic[20] . . . having entrusted to them a despotism taking its shape from violence, perhaps he [the

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16 Stuart A. Scheingold, Cause Lawyering and Democracy in Transnational Perspective, *in* CAUSE LAWYERING AND THE STATE IN A GLOBAL ERA 25, 382–441 (Austin Sarat & Stuart A. Scheingold eds., 2001); LAWYERS AND THE RISE OF WESTERN POLITICAL LIBERALISM 16 (Terence C. Halliday & Lucien Karpik eds., Oxford University Press, 1997).

17 ALEXIS DE TOCQUEVILLE, DEMOCRACY IN AMERICA 265 (J.P. Mayer ed., George Lawrence trans., Harper Collins 1988).

18 Ethan Michelson, *Lawyers, Political Embeddedness, and Institutional Continuity in China's Transition from Socialism,* 113 AM. J. SOC. 352 (2007).

19 Hualing Fu & Richard Cullen, *Weiquan Lawyering in an Authoritarian State*, 59 CHINA J. 111, 2 (2008).

20 DE TOCQUEVILLE, *supra* note 17.

> prince] might receive it back from their hands with features of justice and law.[21]

Halliday et al. reaffirms this view, pointing out that lawyers are "both very particular kinds of liberals, for they defined their causes narrowly, and conditional liberals, because on notable occasions they failed altogether to pursue the liberal agenda."[22] And indeed, some studies of Chinese lawyers have recognized that lawyers may "serve authoritarianism as well as subvert it."[23]

There is ample evidence of a group of Chinese human rights lawyers dedicated to substantial liberalization. But how big is this group? What is its impact? And what about other Chinese lawyers? Unfortunately, the existent literature on lawyers in China is poorly equipped to help us answer these questions. Studies tended to focus only on the most radical lawyers.[24] A few scholars took the step of categorizing Chinese lawyers and showing some "rights protection" lawyers to be more moderate,[25] or even considering ordinary lawyers, and others not "motivated by political liberalism,"[26] but we know little about the representativeness of these different groups. So while Stern recognizes that "the spectrum of Chinese cause lawyers extends far beyond a narrow swath of politically inclined critics,"[27] the literature tells us little about the size or characteristics of the swath or the lawyers outside it. By looking at the role of lawyers in administrative litigation in China, this article will tell us something important about the numbers and nature of lawyers that fall outside of the narrow swath of politically inclined critics.

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[21] *Id.* at 266.

[22] FIGHTING FOR POLITICAL FREEDOM, *supra* note 16, at 2.

[23] Rachel E. Stern, Navigating the Boundaries of Political Tolerance: Environmental Litigation in China 113 (2009) (unpublished Ph. D. Dissertation, UC Berkeley) (On file with author).

[24] *See, e.g.*, Eva Pils, *Asking the Tiger for His Skin: Rights Activism in China*, 30 FORDHAM INT'L L.J. 1209 (2006); *Chinese Weiquan Lawyer's Experience* 1-3 (Draft, 2009), *available at* http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1564447; Xiaoping Chen, *Difficult Road for Rights Advocacy: An Unpredictable Future for the Development of the Rule of Law in China*, 16 TRANSNAT'L L. & CONTEMP. PROBS. 221 (2006); Jerome A. Cohen, *China Trips Up Its Barefoot Lawyers*, 168 FAR E. ECON. REV. 17-20 (2005); Keith J. Hand, *Using Law for a Righteous Purpose*, 45 COLUM. J. TRANSNAT'L L. 114 (2006).

[25] Fu & Cullen, *Weiquan Lawyering in an Authoritarian State*, *supra* note 19, at 116-18; Fu & Cullen, *Climbing the Weiquan Ladder*, *supra* note 12, at 41.

[26] Sida Liu & Terence C. Halliday, *Political Liberalism and Political Embeddedness: Understanding Politics in the Work of Chinese Criminal Defense Lawyers*, 45 LAW & SOC'Y REV. 831, 836 (2011).

[27] Stern, Navigating the Boundaries, *supra* note 23, at 114; *See generally* Fu & Cullen, *Weiquan Lawyering in an Authoritarian State*, *supra* note 19.

In addition to revising our conception of Chinese lawyers, this article makes a contribution to the more general literature on the legal profession, especially regarding the socio-political activism and impact of lawyers. This literature is well developed, but also complex, divided, and sometimes contradictory. Indeed, a wide range of overlapping, but non-synonymous, terms are used to identify lawyers' socio-political activism. Scheingold and Sarat created a cottage industry in the study of cause lawyering,[28] while Halliday and his associates sometimes used the narrower category of political lawyering.[29] Additionally, some academic works preferred terms that jibe more closely with popular usage such as public interest lawyer[30] or human rights lawyer.[31] Finally, in the Chinese context the category of *weiquan* (维权) lawyer or its translations "rights defense lawyer"[32] or "rights protection lawyer"[33] are also frequently employed. Finally, the articles in this special issue prefer the term social justice lawyer. I use these terms more or less interchangeably and try to stay true to the term used by the relevant source.

This article contributes to the literature on lawyers in several ways. It tells us something about lawyers in an authoritarian context where the risks of political lawyering extend unusually far. In contrast to much of the literature that tends to focus on overtly political collective tactics that operate via institutions such as legislatures and constitutional courts, this study focuses on the political implications of the everyday work of lawyers. Chinese lawyers probably favor this tactic because of the less open political environment, and as a consequence, much, if not most, of the political impact of Chinese lawyers comes through less-

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[28] CAUSE LAWYERING AND THE STATE IN A GLOBAL ERA (Austin Sarat & Stuart A. Scheingold eds., 2001); STUART A. SCHEINGOLD & AUSTIN SARAT, SOMETHING TO BELIEVE IN 2 (2004); Stuart A. Scheingold & Anne Bloom, *Transgressive Cause Lawyering: Practice sites and the politicization of the professional*, 5 INT'L J. LEGAL PROF. 209 (1998); Steven K. Berenson, *Government Lawyer as Cause Lawyer: A Study of Three High Profile Government Lawsuits*, 86 DENV. U.L. REV. 457 (2009); CAUSE LAWYERING: POLITICAL COMMITMENTS AND PROFESSIONAL RESPONSIBILITIES (Austin Sarat & Stuart Scheingold eds., 1998); Thomas M. Hilbink, *You Know the Type. . .:Categories of Cause Lawyering*, 29 LAW & SOC. INQUIRY 657 (2004); Terence C. Halliday, *Politics and Civic Professionalism: Legal Elites and Cause Lawyers*, 24 LAW & SOC. INQUIRY 1013 (1999).

[29] FIGHTING FOR POLITICAL FREEDOM, *supra* note 16, at 3–4.

[30] David Luban, *Taking Out the Adversary: The Assault on Progressive Public-Interest Lawyers*, 91 CALIF. L. REV. 209 (2003).

[31] *See Deena* R. Hurwitz, *Lawyering for Justice*, 28 YALE J. INT'L L. 505 (2003).

[32] Pils, *The Practice of Law as Conscientious Resistance: Chinese Weiquan Lawyers' Experience*, *supra* note 24, at 2.

[33] Fu & Cullen, *Weiquan Lawyering in an Authoritarian State*, *supra* note 19; Fu & Cullen, *supra* note 12, at 41.

controversial cases, such as the ones addressed here. My research also adds to the too small body of work that shows us how and why lawyers may fail to advance liberalism.[34] On several fronts, this piece contributes to the least understood aspects of the political impact of lawyers; it tells us about the everyday work of lawyers in an authoritarian regime and how this can have a political impact that falls far short of advancing liberalism.

II. APPROACH

In order to provide a representative and empirical picture of why, how, and which Chinese lawyers oppose the State, this article looks at their role in China's system of administrative litigation. In 1990, the People's Republic of China (PRC) implemented the Administrative Litigation Law (ALL) which allows some of the State's actions to be challenged in court.[35] The law was foreshadowed by Article 3 of the Civil Procedure Law of 1982 which opened the door for litigation against the State.[36] By 1988 there were "more than 130 laws and regulations that allowed citizens and organizations that refused to accept the handling of administrative organs to sue in court."[37] Because some part of the government is always the defendant in an administrative case, these cases are, by definition, about challenging China's authoritarian State. While not all administrative cases are politically controversial and not all politically controversial cases are administrative, it makes sense to focus on administrative law as the most political class of cases. Additionally, administrative law is an extremely important component of any legal system and, in China, has never received the detailed attention of an expansive research project such as the one on which this article is based.[38]

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[34] For an excellent example of work in the underdeveloped literature on how and when the legal profession fails to advance liberalism see: *Kenneth* F. Ledford, *German Lawyers and the State in the Weimar Republic*, 13 LAW & HIST. REV. 317 (1995).

[35] Administrative Procedure Law of the People's Republic of China, Article 2, (effective Oct. 1, 1990), http://en.chinacourt.org/public/detail.php?id=2695 (China).

[36] Minxin Pei, *Citizens V. Mandarins*, 152 CHINA Q. 832, 833 (1997).

[37] CHINA LEGAL YEARBOOK 1989 9 (甘重斗 Gan Chongdou ed., China Legal Press 法律出版社 1989).

[38] Anglophone research on administrative litigation in China has generally been limited to smaller studies. *See* Jonathan Kinkel & William Hurst, *Access to Justice in Post-Mao China*, 11 J. OF E. ASIAN STUD. 467 (2011).

Concentrating only on the most controversial cases and/or radical lawyers is essentially what previous studies of rights protection lawyers have done and is highly problematic.[39] Looking only at these exceptional litigators gives us a misleadingly unrepresentative view that is likely to misstate both the impact and meaning of litigation that challenges the Chinese State. Such an approach fails to give us a sense of the range of cases from the mundane to the extremely controversial. Even if we were interested in the most controversial cases and the most radical litigators, understanding this range gives us vital points of comparison and provides information about the frequency of such cases.

What we learn from Tocqueville, Halliday et al., and common sense is that there are lawyers of all types, with different ambitions (some small, some large) who find themselves challenging the State because the legal profession by default has a role in the administrative legal system China created.[40] A few brave, or perhaps foolhardy, lawyers use this role to challenge the State by frontal assault. Others back into administrative cases more or less by accident. Most cases, however, are taken by moderate lawyers with the experience and connections to handle them successfully. This study shows us that instead of worrying about a difficult to define and often impossible to empirically identify boundary between cause lawyer and conventional lawyer, we can learn more by focusing on lawyers that challenge existing powers, regardless of whether they fit any particular preconceived theory. If we are interested in lawyers who "actively use legal institutions and other platforms to challenge China's authoritarian system"[41] then we should identify these lawyers by their participation in administrative cases and then show what does or does not differentiate them from other Chinese lawyers.

If a significant portion of administrative cases were handled by the rights protection lawyers described in the media and scholarly literature, then we could draw strong conclusions about how China's legal profession is challenging its one party State. However, Guo Guoting, a *weiquan* lawyer who was sufficiently outspoken to be

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[39] Fu & Cullen, *Weiquan Lawyering in an Authoritarian State*, *supra* note 19; Fu & Cullen, *Climbing the Weiquan Ladder*, *supra* note 12; Pils, *Asking the Tiger for His Skin*, *supra* note 24; Pils, *The Practice of Law as Conscientious Resistance*, *supra* note 24; Eva Pils, Charter 08 and the Dark Sides of the Chinese Weiquan Movement (Sep. 22, 2010) (unpublished article), http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1687592; Hand, *supra* note 24.

[40] DE TOCQUEVILLE, *supra* note 17; Liu & Halliday, *supra* note 26 at 836.

[41] Fu & Cullen, *Climbing the Weiquan Ladder*, *supra* note 12, at 41.

disbarred and forced into exile,[42] says that "out of 200,000 lawyers in China now, there are only 74 *weiquan* [rights protection] lawyers (全国现有近二十万律师，但仅有人权律师74人)."[43] This estimate is probably low, but it is impossible that the small number of well-known rights protection lawyers in China could be responsible for the tens of thousands of suits against the State that lawyers handle every year.[44]

More representative work on China's legal profession tells us that in order to ensure a successful practice, many Chinese lawyers find it necessary to stay politically embedded, i.e. to maintain close connections to the State,[45] and that "there is an inverse relationship between lawyers' political embeddedness with the justice system and their liberal political values and motivations to pursue the core elements of political liberalism."[46] As we shall see, administrative litigators look more embedded and less liberal. This means we have to reconceptualize a new, more ambiguous, relationship between the legal profession and political liberalism in China.

III. CHINA'S COURTS

A basic understanding of courts in the contemporary PRC is helpful for conceptualizing the position of lawyers in China's legal system. China's courts are organized in the same manner as an administrative bureaucracy. At the top is the Supreme People's Court in Beijing which is "involved in interpreting law, adjudicating, legislating, as well as administering the judiciary."[47] Below this are the high courts at the provincial level, the intermediate courts at the prefectural level, and the basic courts at the county or district level. Basic courts handle approximately eighty-percent of cases[48] and employ a similar percentage

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[42] HUMAN RIGHTS WATCH, WALKING ON THIN ICE 88, 97–101 (2008).

[43] 汀 Guo Guoting, *China's Right Protection Lawyers Lack Rights 中国人权律师没有人权*, GUO GUOTING'S PERSONAL SPACE 郭国汀的个人空间 (Oct. 18, 2012, 4:04 AM), http://bbs.wolfax.com/t-25422-1-1.html.

[44] CHINA LAWYERS YEARBOOK 中国律师年检 2006-2008, (吴秀军 Wu Xiujun & 范春雪 Fan Chunxue eds., 2009).

[45] Michelson, *Lawyers, Political Embeddedness*, *supra* note 18; Liu & Halliday, *supra* note 26 at 836.

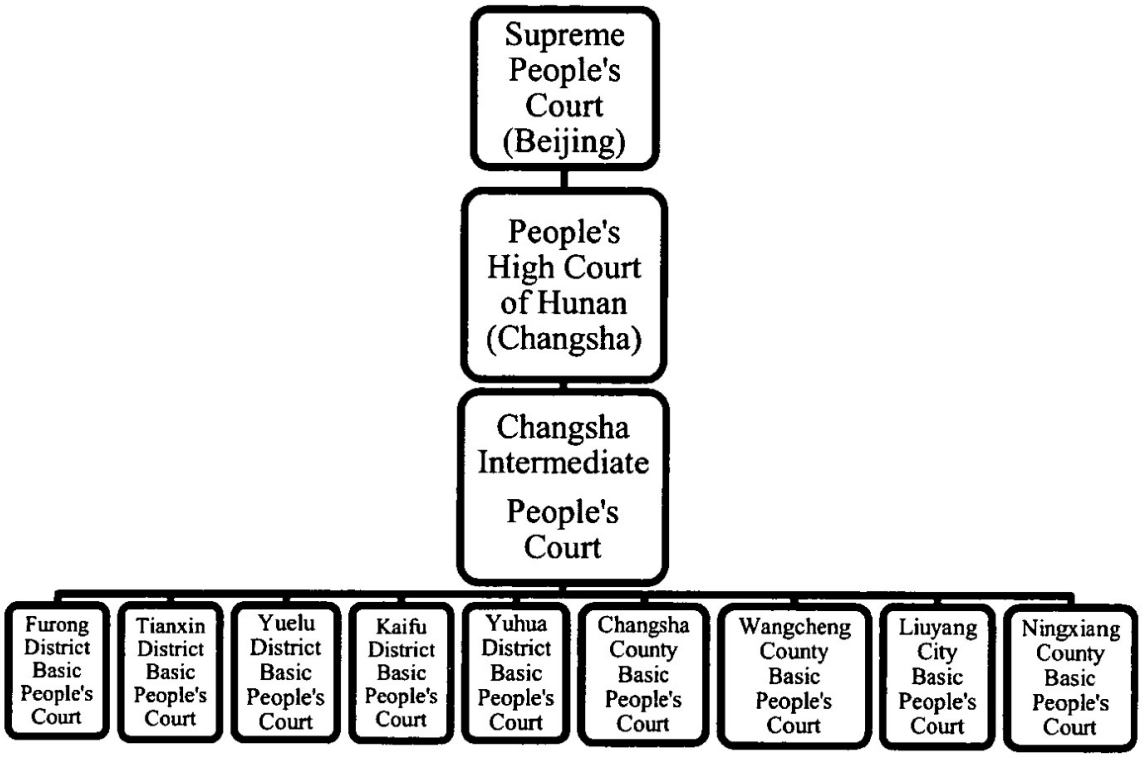
[46] Liu & Halliday, *supra* note 26, at 836.

[47] Susan Finder, *The Supreme People's Court of the People's Republic of China,* 7 J. CHINESE L. 145 (1993).

[48] Mei Ying Gechlik, *Judicial Reform in China: Lessons From Shanghai*, 19 COLUM. J. ASIAN L. 97, 114 (2005).

of judicial personnel.[49] Figure 1 demonstrates the general hierarchy of China's courts using the example of Changsha, the capital of Hunan Province and one of my field sites.

Figure 1: Hierarchy of People's Court in Changsha, Hunan



Administrative, as well as civil, cases in China must initially be submitted to the court through case filing divisions (*li'anting*立案庭), an important bottleneck at which many administrative cases are blocked.[50] If accepted, most administrative cases are then heard by the basic level court in the county or district "where the administrative organ that initially undertook the specific administrative act is located."[51] Cases may initially be heard by a higher level court if they involve a patent or custom department, a department at the provincial or national level, or

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[49] RANDALL PEERENBOOM, CHINA'S LONG MARCH 283 (2002).

[50] Nanping Liu & Michelle Liu, *Justice Without Judges: The Case Filing Division in the People's Republic of China*, 17 U.C. DAVIS J. INT'L L. & POL'Y 283, 284-292 (2011).

[51] Administrative Procedure Law, *supra* note 35, at Art. 17.

are "grave and complicated."[52] If one party is unhappy with the result of a case, the case may be appealed; around one-third of administrative cases are appealed.[53] A first appeal goes to the court which is the direct superior of the court that initially heard the case. If a party is unsatisfied after the appeal then the case may be submitted for a final document-only review (再审), though this is relatively rare.[54] China's courts can be complex, inconsistent, and opaque and need not detain us further. These very characteristics, however, are among the principal reasons that experienced legal representation is so important..

IV. LAWYERS

Though legal practitioners sometimes served the important function of helping average Chinese access the justice of the State, Imperial China banned legal practitioners[55] treating them ". . .as scapegoats; unjustly blaming them for the high incidence of litigation that the understaffed Imperial judiciary was incapable of handling."[56] Serious efforts to create a competent professional modern bar in the late Qing[57] and Republican era[58] had trouble taking hold in such chaotic and uncertain environments. There were probably no more than ten thousand lawyers in all of China before 1949.[59] Lawyers enjoyed a brief honeymoon period in the beginning of the Communist era, but the anti-rightest campaign in 1957[60] marked the beginning of lawyers being "degraded, frustrated, and trivialized for nearly three decades due to political campaigns."[61] The legal profession began to revive in 1979 with the trial of the Gang of Four, but until new regulations were passed in

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52 *Id.*, at Art. 13-17.

53 中国法律年鉴编辑部 CHINA LEGAL YEARBOOK EDITORIAL BOARD, CHINA LEGAL YEARBOOK 1989-2012 (China Legal Press 法律出版社 2012).

54 *Id.*

55 MELISSA MACAULEY, SOCIAL POWER AND LEGAL CULTURE 18–58 (1998).

56 PEERENBOOM, *supra* note 49, at 345.

57 PHILIP HUANG, CODE, CUSTOM, AND LEGAL PRACTICE IN CHINA 33, 38–39 (2002).

58 ALISON W. CONNER, *Lawyers and the Legal Profession During the Republican Period, in* CIVIL LAW IN QING AND REPUBLICAN CHINA 215 (Kathryn Bernhardt and Philip C.C. Huang eds., 1994); HUANG, *supra* note 60, at 43–46.

59 HUANG, *supra* note 60, at 44.

60 PEERENBOOM, *supra* note 49, at 347.

61 Qizhi Luo, *Autonomy, Qualification and Professionalism of the PRC Bar*, 12 COLUM. J. ASIAN L. 1, 1 (1998).

1987, lawyers were treated as administrative cadres little different than a court clerk or procurator.[62]

Figure 2 shows the dramatic increase in the number of law firms and full-time lawyers in China over the past 24 years. It also demonstrates that the average number of lawyers per law firm has stayed relatively steady at around ten, a number that is corroborated by the 2007 survey.

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[62] *Id.* at 2; Liu and Liu, *supra* note 53, at 284; Michelson, *Lawyers, Political Embeddedness*, *supra* note 18, at 362.

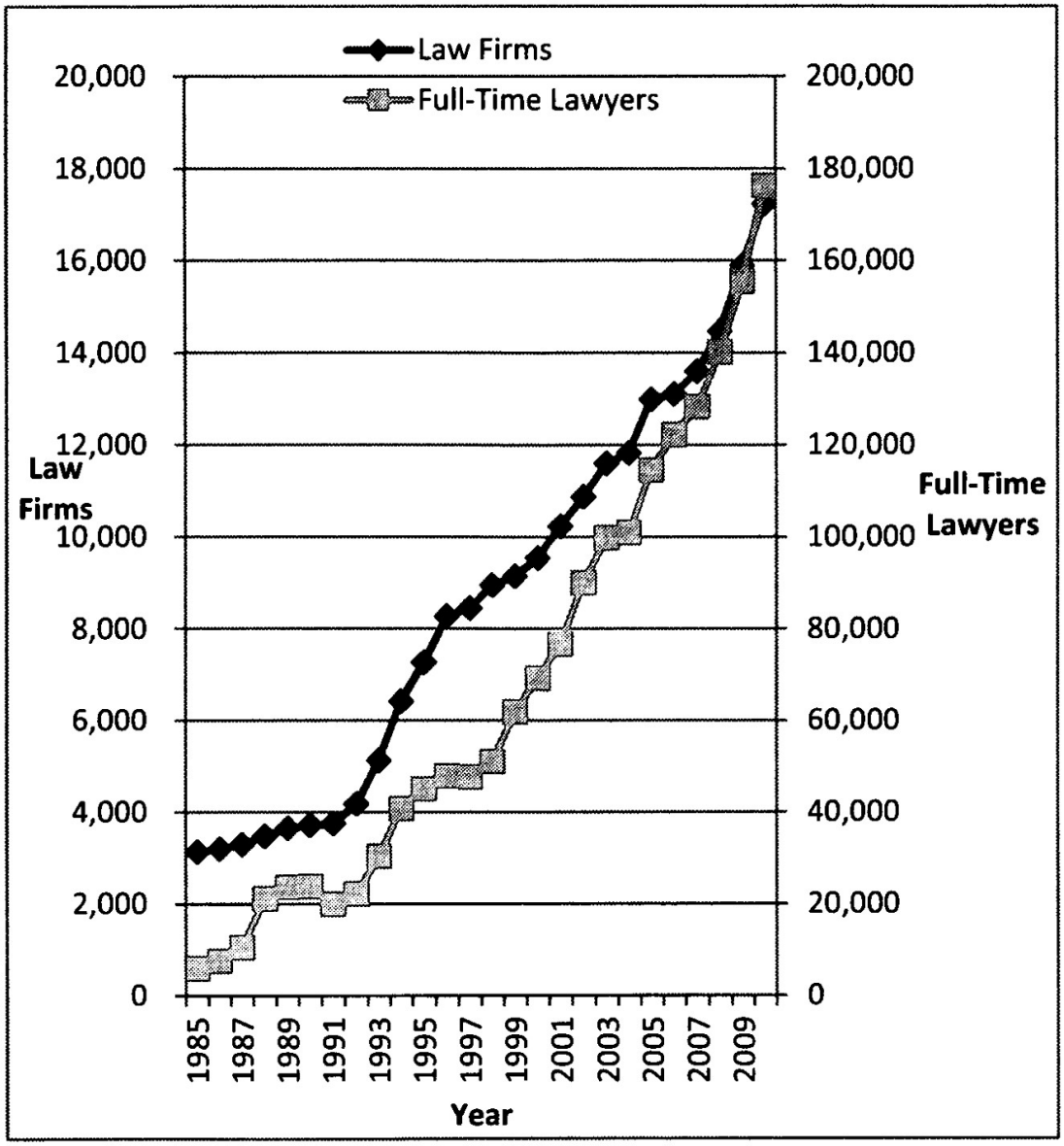


Figure 2: Law Firms and Full-Time Lawyers in China[63]

Yet despite, or perhaps because of, this impressive increase, excellent sociological research paints a vivid picture in which many lawyers have difficulty scraping out a living and "failure to meet minimum billings quotas in any given year may contribute to high attrition and high lateral mobility between firms."[64] While a class of large prestigious Chinese firms is slowly emerging to meet the needs of

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[63] 中国法律年鉴编辑部 CHINA LEGAL YEARBOOK EDITORIAL BOARD, CHINA LEGAL YEARBOOK 1989-2012 (China Legal Press 法律出版社 2012).

[64] Ethan Michelson, Unhooking from the State: Chinese Lawyers in Transition 248 (Aug. 2003) (unpublished Ph.D. dissertation, Department of Sociology, University of Chicago).

foreign and domestic corporations,[65] the vast majority of Chinese lawyers continue to work at relatively small and undistinguished firms. In dramatic contrast to their white shoe counterparts in the United States,[66] Chinese law firms are generally unimpressive affairs that tend to "have fewer desks than lawyers, and the desks that are available for lawyers tend to be shared."[67] A lawyer who practiced for over two decades complained of lawyers so desperate they would "wait on the steps of the courthouse to solicit clients" and that the glut of lawyers drove down prices and marred the reputation of the profession.[68] In other words, "lawyers in China struggle against a rather unsavory reputation."[69]

While these concerns may echo those heard in developed legal systems, this negative conception of lawyers is not adequately counterbalanced against prestigious firms and law schools, impressive incomes, and disproportional participation in legislatures and other venerable and powerful institutions. Indeed, in recent years law school graduates "have ranked dead last among all college graduates in terms of finding jobs."[70] While this six-fold increase in the number of lawyers in China has potential for plaintiffs seeking representation, the market appears to be flooded with lawyers who are not necessarily well trained, experienced, or needed in a country in which the legal system is still underdeveloped.[71] One lawyer summed up the situation bluntly: "every aspect of your work is limited (方方面面受限), the atmosphere is bad, and clients are ungrateful."[72]

Since 1987, lawyers and law firms have gradually unhooked from the State,[73] but China's most experienced lawyers often have close ties with officials and departments that go back to the era in which law firms were owned and controlled by local judicial bureaus. Especially in less developed areas, some lawyers had difficulty unhooking from the State. In many cities and towns the oldest law firms (sometimes the only

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65 Sida Liu, *Globalization as Boundary-Blurring: International and Local Law Firms in China's Corporate Law Market*, 42 LAW & SOC'Y REV. 771 (2008).

66 *See Elizabeth* Chambliss, *The Shoe Still Fits*, LEGAL AFF., Sept.-Oct. 2005, at 18.

67 Michelson, *supra* note 67, at 190.

68 Interview with BJ06N in Beijing (July 2010); *See infra* app..

69 Michelson, *supra* note 67, at 16.

70 Carl F. Minzner, *The Rise and Fall of Chinese Legal Education*, 36 FORDHAM INT'L L. J. 334, 351 (2013).

71 *Id.* at 334-36.

72 Interview with BJ03N in Beijing (July 2010); *See infra* app..

73 Michelson, *supra* note 67, at 64.

law firm) [74] still have their offices inside or adjacent to the judicial bureau that was the law firm's direct superior in the era when it was state owned.[75]

In a vivid example, a law firm I visited in rural Hunan was never able to follow the common path of privatizing and adopting a partnership structure. Instead, the local judicial bureau kept it in a quasi-state-owned limbo and charged the firm a substantial sum to rent a closet in the judicial bureau that was neither needed nor used. Yet close connections do not always mean control. While the judicial bureau in this county clearly saw the firm as a source of rent, a lawyer at the firm told me that "the judicial bureau does not pay any attention to us (司法局完全不管我们)."[76] As we shall see, these types of connections figure prominently into this article as the lawyers with connections to the State are those most willing and best able to challenge it.

V. LITIGATING ADMINISTRATIVE CASES

No previous Anglophone scholarship has focused on the role of Chinese lawyers in administrative litigation, and the lawyers who have attracted attention for their participation in administrative cases generally fared extremely poorly. In academic,[77] NGO,[78] and media[79] coverage of administrative cases, lawyers are frequently disbarred, receive threats against themselves and their families, and are even beaten and/or jailed. This view fits nicely with the more extreme understandings of rights protection lawyers. Surely only a serious ideological commitment could induce lawyers to risk their careers, livelihoods, freedom, and families by taking on the Chinese State. Yet, like so much research on China, it suffers from a bias towards sensationalism. Even when researchers or journalists are not specifically looking for the most controversial cases and the most outrageous instances of injustice, which they often are, they

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[74] Interview with XX05S in Rural Hunan (Dec. 2010); *See infra* app..

[75] Interview with XX07S in Rural Hunan (Dec. 2010); Interview with CS06S in Changsha, Hunan (Nov. 2010); *See infra* app..

[76] Interview with XX05S in Rural Hunan (Dec. 2010); *See infra* app..

[77] Pils, *Asking the Tiger for His Skin*, *supra* note 24; Pils, *The Practice of Law as Conscientious Resistance*, *supra* note 24.

[78] Amnesty International recently published a report detailing the plight of China's human rights lawyers, many of whose most important cases were administrative. *Against the Law*, AMNESTY INTERNATIONAL, June 2011, at 9.

[79] *Police Beat up Activist's Wife: Report*, TAIPEI TIMES, Dec. 3, 2006, at 4, http://www.taipeitimes.com/News/world/archives/2006/12/03/2003338907.

tend to find them. Large collective cases, extremely sensitive cases, and cases in which lawyers are beaten or arrested tend to attract more attention; thus, these kinds of cases and the lawyers who litigate them feature far more prominently in both media accounts and academic work.

Since I conducted my interviews on administrative litigation using a random sample of lawyers and I checked my findings against a large survey, I am able to improve on the biased and partial understanding of administrative litigators that is found in the literature. My findings show that lawyers generally view administrative cases as "relatively more difficult (难度比较大),"[80] unprofitable, and time consuming[81] rather than impossible or dangerous. A particularly pithy iteration of a sentiment often repeated by my informants held that "a lawyer specializing in administrative law would quickly starve to death (专门搞行政诉讼的律师快会饿死了)."[82]

In the most sensitive cases, suits often fail; but lawyers rarely get in trouble as long as they stay within the bounds of the legal system. If a case is too sensitive to litigate, a lower-level court may refuse to accept it and then a higher-level court may refuse again on appeal.[83] In extreme cases, law firms may receive notices that certain categories of cases will not be accepted.[84] Alternatively, the plaintiff may lose in both the first and second instance. Weak legal reasoning may be invented to justify a loss or rejection[85] or no reason may be given.[86] Lawyers, especially those with close connections to the State, may be told in private by apologetic judges that political pressure will not allow them to accept a case or to

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[80] Interview with BJ01N in Beijing (July 2010); *See infra* app..

[81] Interview with BJ08-L in Beijing (Mar. 2011); Interview with BJ15N in Beijing (July 2010); Interview with CS23N in Changsha, Hunan (Dec. 2010); Interview with NB19S in Ningbo, Zhejiang (Aug. 2010); Interview with SH12S in Shanghai (Oct. 2010); Interview with SH14S in Shanghai (Oct. 2010);*See infra* app..

[82] Interview with TJ04-P/J in Tainjin (May 2010); *See infra* app.. This is not precisely true as at least one lawyer in China makes a very impressive living only representing plaintiffs in administrative cases and such administrative cases produce substantial profits for a small number of other lawyers throughout China, especially when they represent the State. Nevertheless, the sentiment that administrative cases are unprofitable and therefore few lawyers specialize in them is, generally speaking, correct.

[83] The court's ability to refuse to hear a case is an important aspect of the Chinese legal system that differentiates it from most developed world legal systems. Although it is beyond our scope here, the subject has finally begun to receive the attention it deserves. *See* Liu & Liu, supra note 53.

[84] Interview with BJ01-P in Beijing (Apr. 2010); *See infra* app..

[85] Nanping Liu, *Trick or Treat: Legal Reasoning in the Shadow of Corruption in the People's Republic of China*, 34 N.C. J. INT'L L. & COM. REG. 179, 199 (2008).

[86] Interview with XX09S in Rural Hunan (Dec. 2010); *See infra* app.

find in favor of a plaintiff.[87] An official who can pressure courts to find in his favor or reject a case against him has no need to retaliate against plaintiffs or their lawyers. While this is a disappointing outcome for plaintiffs, it may prove in the long run to be a positive for China's legal system as it reduces the risk to lawyers. Having exhausted all legal options, most lawyers prefer to call it quits and live to litigate another day. Even if they, like cause lawyers, pursue "ends and ideals that transcend client service,"[88] nearly all of my informants saw themselves primarily as lawyers whose role is to work through the legal system, not outside it.

In administrative cases, it is generally only contentious extra-legal activities, such as going to the media, organizing activists, and outright protest, that results in lawyers landing themselves in trouble.[89] As an administrative litigator who usually represented the government explained, "for example, a lawyer in Shenzhen who represented the plaintiffs in a expropriation/demolition (拆迁) case went with his clients to physically interfere with the demolition. I disapprove of this and that lawyer was imprisoned for half a year."[90] Yet, the most successful, experienced, and well-connected administrative litigators are able to use some of these tactics to their advantage. Domestic media attention or plaintiffs making a ruckus in the streets or online can help put pressure on officials to concede to plaintiffs' demands. [91]

Chen Guangcheng's problems probably arose because his courage and conviction drove him to take actions which, especially in combination, made him a target: 1) his case touched on a nationally sensitive issue (the one-child policy); 2) he included over a thousand plaintiffs and attempted to open the door for over a hundred thousand more;[92] 3) he lacked close connections to the State; 4) he spoke with and

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87 Interview with BJ09-L in Beijing (Mar. 2011); *See infra* app..

88 SCHEINGOLD & SARAT, SOMETHING TO BELIEVE IN: POLITICS, PROFESSIONALISM AND CAUSE LAWYERING, *supra* note 28, at 3.

89 This may be in contrast to criminal cases; perhaps because, as opposed to civil or administrative cases, there is no simple legal way to keep a criminal case and a defence lawyer out of the court if the government wants a conviction.

90 Interview with BJ21S in Beijing (July 2010); *See infra* app..

91 Interview with BJ28S in Beijing (Oct./ Nov. 2010); Interview with BJ03N in Beijing (July 2010); Interview with AL01-L (Aug. 2010); *See infra* app..

92 *What Will Drive China's Future Legal Development? Reports from the Field: Hearing Before the Cong.-Exec. Comm'n on China*, 110th Cong. 7 (2008) (statement of Rep. Christopher Smith, Member, Cong.-Exec. Comm'n on China); Jacobs, *supra* note 4.

was well publicized in the *foreign* media;[93] 5) a public protest was involved;[94] and 6) he was continuing to pursue a case that he had lost at the lower level and was being ignored by the intermediate court.[95] Most administrative litigators would probably have avoided serious reprisals by giving up after the appeal was ignored or choosing less aggressive tactics. Other lawyers, for example, probably would have brought a much smaller group of plaintiffs (even one of China's most successful administrative litigators had never filed a case with over 700 plaintiffs).[96]

It is difficult to assess whether less aggressive tactics would ultimately have been more successful, but it seems likely that they would have kept Chen out of trouble. In the words of an extremely successful and prolific administrative litigator: "there are very few cases that are too sensitive, but some of the most sensitive cases that the Beijing rights protection (维权) lawyers take, I will not represent."[97] Chen's case is one of these extreme incidents that fall outside of the purview of all but the most radical Chinese lawyers. The more representative view of administrative litigation that I presented in this section will help us understand the lawyers who accept the vast majority of administrative cases and why they do.

VI. MOTIVATIONS

The literature on both cause and rights defense lawyering is rich with discussions of motivation,[98] indeed the field's leading proponents define cause lawyers by their "ends and ideals that transcend clients service."[99] Therefore, though I do not find motivation to be an important differentiating factor for administrative litigators, I will address it here. My data shows that while the values, ideologies, and motivations expressed by administrative litigators are often similar to those named in the literature on rights defense lawyers in China and cause lawyers more

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93 Beech, *supra* note 7; Pan, *supra* note 8.

94 *See Shandong Blind Human Rights Activist*, *supra* note 3.

95 Li Baiguang, *supra* note 6.

96 Interview with AL01-L (Aug. 2010); *See infra* app.. Although O'Brien and Li do identify a case in Hainan involving over 2,000 villagers: *See* Kevin J. O'Brien & Lianjiang Li, *Suing the Local State: Administrative Litigation in Rural China*, 51 CHINA J. 75, 82 (2004).

97 Interview with AL01-L (Aug. 2010); *See infra* app..

98 CARRIE MENKEL-MEADOW, *The Causes of Cause Lawyering*, *in* CAUSE LAWYERING: POLITICAL COMMITMENTS AND PROFESSIONAL RESPONSIBILITIES 31 (1998).

99 SCHEINGOLD & SARAT, SOMETHING TO BELIEVE IN: POLITICS, PROFESSIONALISM AND CAUSE LAWYERING, *supra* note 28, at 3.

broadly, these do not significantly differentiate them from the wider population of Chinese lawyers. This result echoes Michelson and Liu's 2009 survey, which "find[s] no evidence that the political values of self-identified rights defense (weiquan) lawyers differ from those of lawyers who do not identify as such."[100]

Altruistic motivations are not absent from administrative litigators; they are just not their defining characteristic. Administrative litigators sometimes spoke of a commitment to rule of law,[101] professional responsibility,[102] a sense of justice (especially procedural justice),[103] public interestedness,[104] and sympathy for average people (老百姓).[105] Scholars of cause lawyering in and outside China tend to identify and emphasize these motivations because they expect to find them. Yet, administrative litigators also identified motives that could and do lead them to less political types of law, these included a desire to be challenged,[106] a strong contentious streak,[107] or simply the desire to take cases that they find interesting.[108]

If one compares the ideology of lawyers that challenge the State to Chinese lawyers more broadly, they look remarkably similar. Lawyers that rarely or never set foot in administrative court, still talked to me about their desire to help people,[109] sense of justice,[110] commitment to rule of law,[111] admiration for the United States Constitution and lawyers in the West,[112] and potential impact on society.[113] Some lawyers who never took an administrative case still made overt political statements,

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[100] Ethan Michelson & Sida Liu, *What Do Chinese Lawyers Want?*, *in* CHINA'S EMERGING MIDDLE CLASS: BEYOND ECONOMIC TRANSFORMATION 310, 323 (2010).

[101] Interview with CS24S in Changsha, Hunan (Dec. 2010); *See infra* app..

[102] Interview with LZ03-L/J in Lanzhou, Gansu (May 2010); Interview with SH12S in Shanghai (Oct. 2010); *See infra* app..

[103] Interview with XX02S in Rural Hunan (Dec. 2010); Interview with BJ15N in Beijing (July 2010); *See infra* app..

[104] Interview with LZ03-L/J in Lanzhou, Gansu (May 2010); *See infra* app..

[105] Interview with NB19S in Ningbo, Zhejiang (Aug. 2010); Interview with CS04S in Changsha, Hunan (Nov. 2010); *See infra* app.

[106] Interview with SH16S in Shanghai (Oct. 2010); *See infra* app..

[107] Interview with AL01-L (Aug. 2010); *See infra* app..

[108] Interview with BJ28S in Beijing (Oct. or Nov. 2010); *See infra* app..

[109] Interview with XX03S in Hunan (Dec. 2010); *See infra* app..

[110] Interview with SH21S in Shanghai (Oct. 2010); *See infra* app..

[111] Interview with NB16S in Ningbo, Zhejiang (Aug. 2010); *see infra* app..

[112] Interview with BJ01N in Beijing (July 2010); *See infra* app..

[113] Interview with GL05S in Guilin, Guanxi (Feb. 2011); *See infra* app..

such as "officials control too much in China."[114] While one politically embedded lawyer showed me books about Hayek and civil rights that seemed to have made a significant impression on him;[115] a highly commercial and largely non-litigious lawyer who had "never encountered (没碰到)" an administrative case[116] similarly showed me his copy of Alan Dershowitz's *Letters to a Young Lawyer*, a book that advises: "Love liberty. Love justice. Love the good that law can produce."[117] Finally, as Table 1 shows, my informants, in the abstract, were more willing to represent plaintiffs than the State in an administrative suit, despite the greater difficulty and lack of profitability.

Table 1: Prefer to Represent a Plaintiff or the State

In an administrative case I would. . .	# of Responses	% of Responses
rather not represent either side	6	5%
prefer to represent an administrative plaintiff	36	31%
be willing to represent either the State or a plaintiff	48	41%
prefer to represent an administrative defendant (the State)	26	22%

Considering how much the literature on cause lawyering emphasizes motivation and ideology, it may be surprising that they do not play as large a part in China. Yet given the different context it may make sense. In more developed legal systems, motivations may differentiate cause lawyers because they are often committed to very specific causes which other lawyers may care little about or even find

[114] Interview with CS17S in Changsha, Hunan (Nov. 2010); *See infra* app..
[115] Interview with NB20S in Ningbo, Zhejiang (Oct. 2010); *See infra* app..
[116] Interview with SH08-L in Shanghai (May 2010); *See infra* app..
[117] ALAN M. DERSHOWITZ, LETTERS TO A YOUNG LAWYER 23 (2001).

abhorrent.[118] Yet, as is the case with lawyers in Malaysia, Indonesia, and the Burmese lawyers in this issue, in the contemporary PRC "the principle cause at issue . . . is one dear to private lawyers everywhere – the rule of law itself."[119]

This dedication to rule of law above other causes can be seen by the fact that moderate Chinese rights defenders sometimes purposely pick fights over issues without social or political value such as challenging "additional fees for consumers who bring their own alcohol when dining in restaurants"[120] or forcing "China's ministry of railways to provide train passengers with receipts for purchases of food and other items while riding China's rails - often worth less than US$1."[121] In general, lawyers like to contribute to advancing justice, especially procedural justice.[122]

Most Chinese lawyers feel that administrative cases are outside their expertise and are too difficult, time consuming, risky, and unprofitable. In large part this is because they lack the connections and experience to successfully litigate administrative cases. As the next section will show, politically embedded lawyers, however, have the capacity to litigate administrative cases with relative effectiveness and take the difficulties thereof in stride.

VII. ADMINISTRATIVE LITIGATORS

In this section, I introduce the two types of lawyers that take the vast majority of administrative cases. I outline the basic characteristics of each type. I will, limit myself to instructive comparisons with radical rights defense lawyers (*weiquan*) where they prove useful.

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[118] *See generally* SCHEINGOLD & SARAT, SOMETHING TO BELIEVE IN, *supra* note 28, at 3.

[119] Daniel Lev, *Lawyers' Causes in Indonesia and Malaysia, in* CAUSE LAWYERING: POLITICAL COMMITMENTS AND PROFESSIONAL RESPONSIBILITIES 431, 431 (Austin Sarat & Stuart Scheingold, eds., 1998).

[120] Fu & Cullen, *Weiquan Lawyering in an Authoritarian State*, *supra* note 19, at 117.

[121] Paul Mooney, *Legal Activist Fosters Public Interest in China Courts,* THE NATIONAL (Sept. 30, 2008), http://www.thenational.ae/news/world/asia-pacific/legal-activist-fosters-public-interest-in-china-courts.

[122] Lev, *supra* note 122, at 447.

A. POLITICALLY EMBEDDED LAWYERS[123]

Most Administrative Cases Handled by Lawyers Are Taken by a Relatively Small Number of Lawyers with Close Connections to the State.

A wide variety of the empirical literature on China has shown that enjoying close ties with the State is important for most of the players in a standard conception of State-society relations. Connections with the state can help provide access to information and resources and smooth over potentially difficult situations. For Chinese journalists, ties to the State help provide access to information and protection from retribution for unflattering stories.[124] "For Chinese NGOs, resources and influence often come about not because they are removed from the State, but because they enjoy close ties with the state."[125] O'Brien found that even China's legislatures pursue a strategy of embeddedness in order to maximize their influence.[126] Representative research on the Chinese legal profession from Michaelson, Liu, and Halliday, revealed that having a close relationship with parts of the State is often necessary, or at least extremely helpful, for lawyers to pursue their work, including challenging the State in criminal court.[127] Accordingly, most administrative cases are litigated by politically embedded lawyers. These lawyers are differentiated by their connections, especially with government officials and/or departments. Most commonly, these are lawyers who previously worked for the government, either as an official or as outside counsel.

Because lawyers and law firms have slowly unhooked from the

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[123] I gratefully borrow this term from Ethan Michelson. *See* Michelson, *supra* note 18, at 393; See also Liu & Halliday, *supra* note 26 at 831; *See generally* Stern, Navigating the Boundaries, *supra* note 23, at 64.

[124] John Wagner Givens & Maria Repnikova, *Advocates of Change in Authoritarian Regimes*, 31 (Aug. 17, 2011) (unpublished manuscript) (SSRN eLibrary), available at http://ssrn.com/absract=1911590.

[125] May Farid, *China's Grassroots NGOs and the Local State*, 5 (2011) (quoting Shawn Shieh) (unpublished manuscript) (SSRN eLibrary), available at http://ssrn.com/abstract=1899937; *See also* Michael Büsgen, *NGOs and the Search for Chinese Civil Society Environmental Non-governmental Organisations in the Nujiang Campaign*, 2 (Inst. of Soc. Stud., Working Paper Series No. 422, 2006); Kenneth Foster, *Associations in the Embrace of an Authoritarian State*, STUD. IN COMP. INT'L DEV., Dec. 2001 at 84, 85.

[126] Kevin J. O'Brien, *Chinese People's Congresses and Legislative Embeddedness: Understanding Early Organizational Development*, 27 COMP. POL. STUD. 80, 81 (1994).

[127] Michelson, *Lawyers, Political Embeddedness*, *supra* note 18, at 352; Liu & Halliday, *supra* note 26, at 831; Givens & Repnikova, *supra* note 127, at 12-13.

State over the last two decades, China's most experienced lawyers often have close ties with the State that date back to the pre-privatization era. While they are often high status lawyers, their connections with the State differentiate politically embedded lawyers from other well established but more commercially oriented lawyers. More commercial lawyers (especially specialists in non-litigious, commercial, and/or international work) prefer to cultivate relationships with clients rather than connections with officials or even judges.[128]

My informants agreed nearly unanimously that, though connections were useful in administrative suits, a lawyer cannot expect a judge to rule against the State on the basis of connections alone. In a civil case, if a judge favors one side because of corruption or connections, he is treating a private party unfairly. If a judge gives special treatment to a plaintiff in an administrative case, he is treating a part of the Chinese State unfairly and few, if any, judges are foolhardy enough to take that risk.[129] In the words of one informant: "connections (关系) are probably least important in administrative cases because even if you had good connections with the government, it is the government that you are suing."[130] Connections to the State, however, still help politically embedded lawyers by providing access to experience and information and protection from retribution.

Politically embedded lawyers' connections are often the result of working in or with the State. This is the easiest, and most common, way for administrative litigators to become familiar with administrative rules and regulations. While such rules are not taught in law schools and are completely foreign to most legal professionals, they are generally the grounds on which administrative cases are won or lost. Having previously worked with the State can create a familiarity with such regulations and where, when, and how they are likely to be breeched, which would be difficult to achieve in any other way.[131] Like many United States prosecutors who became criminal defense attorneys, having worked on the other side tends to give these lawyers an advantage

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[128] Interview with BJ14-L in Beijing (Mar. 2011); Interview with SH01-L in Shanghai (May 2010); *See infra* app..

[129] Veron Mei-Ying Hung, *China's WTO Commitment on Independent Judicial Review: Impact on Legal and Political Reform*, 52 AM. J. COMP. L. 77, 107 (2004).

[130] Interview with BJ18N in Beijing (July 2010); *See infra* app..

[131] *Id.*; Interview with TJ04-P/J in Tianjin (Jan. 2010); Interview with BJ08-L in Beijing (Mar. 2011); Interview with BJ16N in Beijing (July 2010); Interview with BJ21S in Beijing (July 2010); Interview with QD04-L in Qingdao, Shandong (June 2010); *See infra* app..

that is difficult for others to match.

Whether it is experience and knowledge of administrative litigation or connections with local governments that truly define frequent administrative litigators is largely a nonexistent distinction. Representing the State in administrative litigation is a relatively profitable and uncontroversial way for lawyers to develop the expertise and connections that they may also use against the State.[132] However, only those who already have close connections with the State are generally hired to represent it in court.[133]

Additionally, local governments tend to favor a handful of local lawyers. For example, before he moved to Beijing, one lawyer from Anhui had previously consulted for the local Land (土地局), Industry and Commerce (工商局), Public Security (公安局), and Labor (劳动局) bureaus. "I represented the government in between ten and twenty cases a year."[134] The fact that this lawyer had a near monopoly on representing the local State shows how difficult it is other lawyers to develop such experience and reinforces the importance of connections with the State.

In addition to the experience and expertise that State connections provide, they can afford lawyers some protection from official harassment. Primarily, political connections give lawyers the confidence to take sensitive cases: "what could a county level official do to me? I used to be an intermediate court judge."[135] Lawyers in my sample almost never had to actually mobilize their political connections to protect themselves. Additionally, as private professionals, unless officials can muster the influence to prevent lawyers' licenses from being renewed, they may have a hard time undermining their livelihood.[136] Politically embedded lawyers tend to have all the markers of upstanding citizens. For example, one lawyer from my sample was the spouse of a representative in the local People's Congress.[137] Like prominent citizens

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[132] Interview with AL01-L (Aug. 2010); *See infra* app..

[133] Many of the informants responding to my question about whether they would rather represent the plaintiff or defendant in administrative litigation, began their answer by explaining that there was no chance they could represent the State since they did not have the necessary connections. *See generally infra* app.

[134] Interview with BJ21S in Beijing (July 2010); *See infra* app..

[135] Interview with LZ03-L/J in Lanzhou, Gansu (May 2010); *See infra* app..

[136] This is a tactic sometimes employed by officials against plaintiffs, lawyers and even their extended families, but seems to be effective primarily when their livelihood depends on the State. Interview with CS24S in Changsha, Hunan (Dec. 2010); *See infra* app..

[137] Interview with NB20S in Ningbo, Zhejiang (Oct. 2010); *See infra* app..

of any community, politically embedded lawyers are more difficult to threaten and punish with impunity. While officials at the sharp end of administrative litigation may dislike politically embedded lawyers, they seem to have a grudging respect for them. "If people hate you – you just make them fear you,"[138] concluded one experienced litigator.

Not all politically embedded lawyers consult for or defend the State, yet they still have good political connections, which are often the product of previously working with the State.[139] Many of these lawyers are distinguished older practitioners whose long careers gave them the status, experience, and earning power associated with politically embedded lawyers. At first glance these lawyers may appear to lack political connections; however, the length of their practice, i.e. twenty-one[140] or twenty-seven[141] years, means that their careers began when law firms were state-owned and lawyers were essentially civil servants. Older lawyers are also more likely to have previously worked in other State positions, especially in the judicial system. Some informants suggested, however, that this was only of limited value.[142] This makes sense because working as an official or even non-administrative court judge may or may not provide direct experience with the critical issues that any lawyer defending the State in administrative court would quickly become familiar with.

An example of an administrative litigator without immediately oblivious links to the State was one respondent that fit the classic typology of a United States social justice lawyer. This respondent more or less made ends meet in a two-room de facto solo practice with the assistance of one legal secretary.[143] He took a large number of administrative and other cases for needy urban residents and peasants. He was very proud of his "public interest service (公益服务)" award from a local judicial bureau (司法局). When he had trouble meeting a 200,000 RMB increase in the size of bond that law firms were required to maintain, he leveraged his connection with the bureau to allow him an extra year to raise the funds. However, he was not necessarily unwilling to switch sides and represent the State:

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[138] Interview with BJ28S in Beijing (Oct. or Nov. 2010); *See infra* app..

[139] Interview with LZ03-L/J in Lanzhou, Gansu (May 2010); *See infra* app..

[140] Interview with BJ21S in Beijing (July 2010); *See infra* app..

[141] Interview with CS24S in Changsha, Hunan (Dec. 2010); *See infra* app..

[142] *Id.*, Interview with SH20N in Shanghai (Oct. 2010); *See infra* app..

[143] *See generally* SCHEINGOLD & SARAT, SOMETHING TO BELIEVE IN, *supra* note 28, at 88-90.

> I never represented the government because I am not good at socializing, and they never asked me. They had their own firms . . . I might be willing to represent the government if they had the stronger case. I would still be willing to represent the State, but I would prefer to represent the common people (老百姓).[144]

Other connections, especially with the media, are also useful for embedded lawyers. Like connections with the State, having influence with the media helps to protect lawyers from the fallout from administrative litigation. Politically embedded lawyers can use contacts in the media to browbeat uncooperative officials and even match them threat for threat: "You screw with me, I'll screw with you, I'll call my friends in the media!"[145] This aggressive and confrontational attitude demonstrates that there is a range of radicalness within the category of politically embedded lawyers. Lawyers at the extreme end of the spectrum might look more like the *weiquan* lawyers commonly depicted in the literature. Yet even this prolific administrative litigator owes his origins to representing the State in administrative cases.[146]

Politically embedded lawyers are not the radical activists that garner so much attention in the West. They are well entrenched and have a strong interest in the establishment. From a Tocquevillian perspective, politically embedded litigators, unlike many Chinese lawyers, seem to hold "that high rank in society which is their due"[147] and we should therefore expect to find that "their temper will be eminently conservative and will prove antidemocratic."[148] They are a conservative force of reform, primarily working towards improving rule of law and government accountability rather than democracy or other liberal goals. They may be doing as much, or more, to support China's one party State as to challenge it, even as they soften its authoritarian edges.

While the relationship between politically embedded lawyers and political liberalism may be problematic, these lawyers are generally stalwart advocates of rule of law. They may, in fact, have a larger impact on improving rule of law than more radical lawyers because they are able to litigate a relatively large number of administrative cases and because they are respected and consulted by officials. One frequent administrative litigator (usually on the side of the State) said that he was

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[144] Interview with BJ06N in Beijing (July 2010); *See infra* app..

[145] Interview with AL01-L (Aug. 2010); *See infra* app..

[146] *Id.*

[147] DE TOCQUEVILLE, *supra* note 17, at 265.

[148] *Id.*

not willing to represent the government when he thinks they are completely wrong. "I will tell them how to resolve it but I will not represent them." If you "can't win and don't have any argument to make, I don't want to help the government screw someone, it isn't honest."[149] Administrative litigation in China is very often the result of the State's authoritarian attitude and methods, most commonly land grabs and overzealous policing. Yet, there are administrative cases in which even the most liberal cause lawyer would be happy to see the State well represented in court, for example, when the environmental bureau is sued by polluters disputing fines. Since rule of law has long been considered both empirically and theoretically important for establishing and maintaining a democracy,[150] embedded lawyers may yet do their part for political liberalism through their contributions to improving rule of law in China.

The commitment of politically embedded lawyers to rule of law is strong and the continued growth of administrative litigation suggests that they are having an impact. A strong legal infrastructure, even one that currently serves an authoritarian regime, could just as easily serve a more liberal government and would be important to both its initial emergence and survival. Rule of law and a muscular and embedded legal profession to support it would be a strong bulwark against an outcome like the one that followed Russia's democratic transition.[151]

B. ACCIDENTAL ADMINISTRATIVE LITIGATORS

A Smaller Number of Administrative Cases Are Handled by Relatively Ordinary Lawyers Who Feel Obligated Due to Pre-existing Relationships or Sympathy.

Although most lawyers are not particularly willing to take administrative cases, many lawyers will take an occasional

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[149] Interview with NB09S in Ningbo, Zhejiang (Aug. 2010); *See infra* app..

[150] Christopher M. Larkins, *Judicial Independence and Democratization: A Theoretical and Conceptual Analysis*, 44AM. J. COMP. L. 605, 605-06 (1996); Roberto Rigobon & Dani Rodrik, *Rule of Law, Democracy, Openness, and Income: Estimating the Interrelationships*, 13 ECON. OF TRANSITION 533, 533 (2005); Jürgen Habermas, *On the Internal Relation Between the Rule of Law and Democracy*, 3 EUR. J. PHIL. 12, 12 (1995).

[151] In the absence of strong legal institutions, Russia's reforms such as privatization and popular elections have been co-opted to facilitate the rise of a non-liberal democracy overseen by a populist autocrat. *See* Jeffrey Kahn, *The Search for the Rule of Law in Russia*, 37 GEO. J. INT'L L. 353, 354-57 (2005).

administrative case because they feel as though they must: "I had to (必须)" or "it can't be helped (没办法)" are common refrains. I characterize these lawyers as accidental administrative litigators. Most lawyers do not like administrative cases because they are likely to be more difficult, controversial, time consuming, and tend to produce only meager financial returns. It is difficult to make a generalization about these lawyers since almost any lawyer is a potential accidental administrative litigator. It is likely, however, that the less litigious, more-commercially minded, and less sympathetic a lawyer is the less likely he or she is to take an administrative case.[152]

An accidental administrative litigator's pre-existing relationship with the plaintiff often obliges him or her to take an administrative case. In many cases, they are existing clients whose business lawyers would like to keep. Sometimes it is a familial relationship, but often these plaintiffs are friends, acquaintances, classmates, or friends of friends. These plaintiffs rely on their connection (*guanxi* 关系) with the lawyer to create a sense of obligation. For lawyers, refusing these cases would often mean a loss of face (*mianzi* 面子). In smaller cities and towns, many, if not most, locals can find some kind of connection to one of the few local lawyers, and even lawyers who now practice in big cities find it difficult to reject clients from their hometowns.[153] In words of one lawyer, there are three reasons for taking on a client with an administrative case: "1) they are your clients; 2) they are your friends; 3) they are friends of friends. I will take admin cases, from these groups of people, but for someone off the street . . . I want to win [i.e. he would only represent a stranger if they had a very good chance of winning.]"[154] As this quote demonstrates, although generally reluctant, lawyers will occasionally accept cases from perfect strangers that happen to contact them, or more likely, walk into their office.

Like a case brought by a distant cousin or friend of a friend, lawyers sometimes take cases from strangers due to a sense of obligation, perhaps grounded in sympathy[155] or a sense of professional responsibility

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[152] J.W. Givens, *supra* note 15.

[153] Stern has found some environmental lawyers in China take cases for similar reasons. *See* RACHEL E. STERN, ENVIRONMENTAL LITIGATION IN CHINA 196 (2013).

[154] Interview with GL03S in Guilin, Guanxi (Feb. 2011); *See infra* app..

[155] This appears to be unique neither to administrative litigation nor to China. *See also* Stern, Navigating the Boundaries, *supra* note 23, at 68; Herbert M. Kritzer, *Lawyer Fees and Lawyer Behavior in Litigation:What Does the Empirical Literature Really Say?*, 80 TEX. L. REV. 1943, 1945 (2002).

(*zhiyedaode* 职业道德).[156] As one lawyer declared: "We are professionals. We are willing to take administrative cases. Lawyers must do this [accept any viable case that comes in]. Lawyers must help people."[157] Lawyers tend to be more likely to accept a client who is pitiable, desperate, and/or has suffered a particularly egregious wrong. [158] As another lawyer explained: "in some cases the lawyer's fee cannot even cover the cost of transportation. But, I will still take the case because the clients are either too poor, or too wronged, or too in need."[159]

While this does bear relation to the motivations of lawyers, these cases rarely involve aims beyond meeting a client's immediate need for legal services. Additionally, these lawyers are not seeking out these cases; they are simply the product of who happens to come through their door. Many of my informants[160] who had never taken an administrative case made remarks along the lines of: "I have only done civil cases, nobody has asked me to do other kinds."[161]

While it might be tempting to exclude accidental administrative litigators from an analysis of lawyers challenging the Chinese State, it would be wrong to do so. These lawyers still account for a substantial portion of administrative cases (I estimate around 20%).[162] For many Chinese who do not know how to find a politically embedded lawyer, relying on connections may be their only chance at legal representation. In many areas of life in modern China, connections help society function by filling in deficiencies in formal institutions. Notable examples include: lending and borrowing capital,[163] employment,[164] ensuring a

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[156] Interview with LZ03-L/J in Lanzhou, Gansu (May 2010); Interview with SH12S in Shanghai (Oct. 2010); Interview with NB21S in Ningbo, Zhejiang (Oct. 2010); Interview with NB20S in Ningbo, Zhejiang (Oct. 2010); Interview with BJ05S in Beijing (July 2010); Interview with NB12N in Ningbo, Zhejiang (Aug. 2010); *See infra* app..

[157] Interview with BJ27S in Beijing (Oct. or Nov. 2010); *See infra* app..

[158] Interview with BJ03N in Beijing (July 2010); Interview with BJ08S in Beijing (July 2010); Interview with BJ20N in Beijing (July 2010); *See infra* app..

[159] Interview with BJ03N in Beijing (July 2010); *See infra* app..

[160] Interview with SH08-L in Shanghai (May 2010); *See infra* app..

[161] Interview with BJ18N in Beijing (July 2010); *See infra* app..

[162] Based on data from the 2007 All-China Lawyers Association survey. J.W. Givens, *supra* note 15 at Chapter 4.

[163] S *See* Y. Peng, *Kinship Networks and Entrepreneurs in China's Transitional Economy*, 109 AM. J. SOC. 1045, 1045 (2004); KELLEE S. TSAI, BACK-ALLEY BANKING (2002); Kellee S. Tsai, *Curbed Markets?*, Kellee S. Tsai, *Curbed Markets?*,(Weatherhead Center for Int'l Aff., Harv. U., Working Paper 98-06, 1998).

[164] *See* Yanjie Bian, *Institutional Holes and Job Mobility Processes: Guanxi Mechanisms in China's Emergent Labor Markets*, *in* SOCIAL CONNECTIONS IN CHINA, 117, 117 (Thomas Gold, Doug Guthrie, & David Wank eds., 2002).

good relationship with the State (especially in terms of property rights),[165] and, more generally, enforcing contracts and overcoming the uncertainties of a weak judicial system.[166] If administrative litigation is insufficiently developed for ordinary lawyers to take cases on their own merits, it is neither bad nor unimportant that some lawyers are compelled to take cases on the basis of their connections.

Even if lawyers are motivated to take administrative cases by feelings of guilt and obligation, the pool of lawyers with some administrative litigation experience has expanded. This could result in previously uninterested lawyers becoming dedicated to using law to challenge the State. Since accidental administrative litigators lack the connections to the State that help moderate politically embedded lawyers, they may provide the most likely source of more radical lawyer activists. Indeed, recent research has suggested that this is how the careers of many radical *weiquan* lawyers began, including Chen Guangcheng.[167]

In general, both accidental and politically embedded administrative litigators genuinely care about helping their clients and occasionally this can lead to them having an impact beyond an individual case. In an unusually dramatic example, a local labor department denied the workers' compensation claim of a plaintiff who was injured by an electric bicycle on his way to work. The insurance would have covered the injuries if he had been hit by a car. This issue was hotly debated because of the obvious danger posed by the rapidly increasing number of electric bicycles on the road. The lawyer did her best to prepare a vigorous case for her client, but was not connected or savvy enough to leverage resources beyond a strong legal argument.[168] Nevertheless, arriving at court she found several news outlets that monitor courts for newsworthy cases were already interested in her case. Despite a weak legal position, the media coverage portrayed the plaintiff as having suffered a common sense injustice at the hands of unfeeling bureaucrats. Thanks to this media scrutiny and a lackluster performance from an overconfident defense, the court decided in the plaintiff's favor. This

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[165] PROPERTY RIGHTS AND ECONOMIC REFORM IN CHINA (Jean C. Oi & Andrew G. Walder eds., 1999).

[166] DAVID L. WANK, COMMODIFYING COMMUNISM 110–11 (2001); *see* Pitman B. Potter, *Guanxi and the PRC Legal System*, *in* SOCIAL CONNECTIONS IN CHINA 179, 179 (Thomas Gold, Doug Guthrie, & David Wank eds., 2002)

[167] Fu & Cullen, *Climbing the Weiquan Ladder*, *supra* note 12, at 43.

[168] Interview with BJ03N in Beijing (July 2010); *See infra* app..

result meant that electric bicycle injury claims are apparently readily accepted throughout China.[169] Though China is at most a soft-precedential civil-law system, labor departments are unlikely to deny such claims, lest they too be sued and lose.[170] While this may be a far cry from *Brown vs. the Board of Education*, it does show that fiercely defending an individual client, at least when accompanied by media coverage, can have a significant impact.

The lawyer that took this electric bicycle case demonstrated both the potential for and difficulty of an accidental administrative litigator becoming something that resembles a cause lawyer. In essence, the lawyer was a particularly sympathetic accidental administrative litigator who "did a lot of [not necessarily administrative] cases for common people (我做老百姓的案子多)." She left a huge Beijing firm to start a solo practice in a tiny windowless room only six months before I met her. Sometimes, she even took a case "in order to try for or pursue change (为了尝试，或者追求改变)". Yet, principally she was driven by the need of individual clients:

> the clients' need is the most important in determining whether to take a case." Additionally, she faced serious financial constraints, "many of my cases for common people (老百姓) are like this [unprofitable]. I know I won't make money but I do it anyway. But I can't take too many of these.[171]

Finally, she concluded: "you cannot change society, but you just try to do whatever you can do. You cannot analyze everything and you cannot single-mindedly pursue legal change – that is not your purpose."[172]

China is changing rapidly, for example solo practice has only recently become legal, and this lawyer and others like her may evolve into something more closely resembling a cause lawyer. For now, however, this lawyer and thousands like her are trying to survive in a challenging environment and help individual clients as best they can. Calling accidental administrative litigators rights defenders or cause lawyers is inaccurate, ignoring them is indefensible.

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[169] *Id.*

[170] As an official, getting sued and, especially, losing is generally considered to give a bad impression and may even hurt one's career. Interview with HK02-FL in Hong Kong (June 2011); *See infra* app.; *See also* Pei, *supra* note 36, at 844.

[171] Interview with BJ03N in Beijing (July 2010); *See infra* app..

[172] *Id.*

VIII. IMPLICATIONS FOR OTHER CONTEXTS

The literature on cause lawyers has focused on lawyers committed to leveraging legal skills to effect wider social and political change. In China, however, this group of lawyers is so small that we must look beyond it if we are to have any hope of understanding how the legal system is able to challenge the Chinese State. The example of China should tell us that even in the United States a significant amount of cause lawyering is probably done by lawyers that may not fit the definition of cause lawyers. Like accidental administrative litigators they may feel pressured into taking these cases, or like politically embedded lawyers they may be establishment figures; yet both could still provide valuable legal services to the needy or desperate. Whether we are interested in the poor in Pittsburg or Bedouins in Israel,[173] we may find that in many or even most cases they are represented by lawyers for reasons that do not jibe with the established understanding of cause lawyering, such as family connections, sympathy for an individual client, or a dearth of other cases. Indeed, by insisting on "ends and ideals that transcend client service,"[174] the literature on cause lawyers can become divorced from much of the empirical reality. This divide can be so dramatic that Sterett felt the need to devote an entire chapter of an early volume on the subject to making the obvious and common sense claim that cause lawyers sometimes "care about individual cases."[175]

It may seem counterintuitive that an example from a less-developed legal system and literature, like the Chinese one, would inform a much better established literature, such as that on United States cause lawyers. Yet, sometimes the problems with an approach are far more evident in an extreme case, as the definitional problems with cause lawyers. Instead of coming up with a definition of cause or social justice lawyers and then trying to identify and describe them, it is far better to look at the lawyers who do the kind of work we are interested in and then see what kind of generalizations we can draw about them. This way,

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[173] See John Kilwein, Still Trying: Cause Lawyering for the Poor and Disadvantaged in Pittsburgh, Pennsylvania, in POLITICAL COMMITMENTS AND PROFESSIONAL RESPONSIBILITIES, supra note 28, at 181; Ronen Shamir & Sara Chinski, Destruction of Houses and Construction of a Cause: Lawyers and Bedouins in the Israeli Courts, in POLITICAL COMMITMENTS AND PROFESSIONAL RESPONSIBILITIES, supra note 28, at 227.

[174] See generally SCHEINGOLD & SARAT, SOMETHING TO BELIEVE IN, supra note 28, at 3.

[175] Susan Sterett, Caring About Individual Cases, in CAUSE LAWYERING: POLITICAL COMMITMENTS AND PROFESSIONAL RESPONSIBILITIES 293 (Austin Sarat & Stuart A. Scheingold eds., 1998).

researchers' findings are determined more by empirical realities and less by the manner in which they have pre-defined their categories.

XI. CONCLUSION

This article, echoing the wider literature on cause lawyers, suggests that studies of rights defenders in China suffer from an overly limiting and theoretical definition which makes empirical assessment difficult. By taking a different approach, i.e. examining the range of lawyers that actually challenge the State in administrative court, my research comes to very different conclusions about which and how Chinese lawyers use the legal system to challenge the State. I show that while altruistic motivations are not absent from China's administrative litigators, similar sentiments are also common among lawyers that do not take administrative cases. Motivation, therefore, is not what differentiates these two groups. Instead, I argue that two types of lawyers take administrative cases.

As a result of their close connections to the State, politically embedded lawyers have the knowledge to litigate administrative cases with relative effectiveness and the connections to do so relatively safely. They are at best, however, establishment players trying to force incremental change from inside a still profoundly authoritarian system. Further, their challenge to the authoritarian system is often diluted when they end up defending it in court. Nevertheless, politically embedded lawyers are committed to and in many ways the best hope for rule of law in China. Accidental administrative litigators, on the other hand, are much more of a wildcard. They take administrative cases either due to a pre-existing relationship with or sympathy for a client. While most will do little more than an occasional administrative case, I suggest that they have been and will continue to be the most likely source of lawyers willing to go to more dramatic lengths to challenge the Chinese State. Finally, I propose that the literature on cause lawyering in other contexts can learn from this approach to the Chinese case. Instead of coming up with a preconceived notion of who cause lawyers are, a better and more empirically driven approach is to identify the kinds of cases we are interested in and then try to figure out which lawyers are taking them.

APPENDIX: INTERVIEWS

Each of the 178 interviews I conducted for this research project on administrative litigation is represented by a code that identifies and provides some basic information about each interview. The first two letters of each interview code indicate the field site, with WG referencing those interviews that were conducted outside of China. The number indicates the order in which the interviews were conducted. Field sites, randomly sampled, and nonprobability sampled interviews are all numbered separately. For the randomly sampled interviews, the letter at the end of the code indicates either that that informant's firm was selected in my original sample (S) or was included through my additional sampling technique (N). For my nonprobability sampled interviews, the letters after the dash indicate the position(s) of the informant, PL for plaintiff, FL for foreign lawyer, and so on. The lists below provide basic information on each interview and should clarify the codes for each field site and position. The exact date of interviews is suppressed in order to better protect the anonymity of my informants.

NONPROBABILITY SAMPLED INTERVIEWS

Interview Code	Location	Time of Interview	Description[176]
AL01-L	Withheld	August, 2010	Prodigious administrative litigator
BJ01-P	Beijing	April, 2010	Professor of law
BJ02-J	Beijing	November, 2010	Retired judge
BJ03-LW	Beijing	November, 2010	Legal worker, law student
BJ04-LW	Beijing	November, 2010	Legal worker
BJ05-LW	Beijing	November, 2010	Legal worker, law professor
BJ06-L	Beijing	March, 2011	Lawyer at a specialized IP firm
BJ07-PA	Beijing	March, 2011	Patent agent at patent agency
BJ08-L	Beijing	March, 2011	Lawyer and partner
BJ09-L	Beijing	March, 2011	Of counsel lawyer
BJ10-PA	Beijing	March, 2011	Patent agent

[176] Unless otherwise specified firms and lawyers are domestic Chinese.

BJ11-FL	Beijing	March, 2011	Foreign lawyer
BJ12-L	Beijing	March, 2011	Lawyer
BJ13-L	Beijing	March, 2011	Chinese lawyer at a foreign firm
BJ14-L	Beijing	March, 2011	Lawyer at IP firm
BJ15-FL	Beijing	March, 2011	Foreign lawyer at Chinese firm*
CS01-PL	Changsha, Hunan	November, 2010	Administrative plaintiff
CS02-PL	Changsha, Hunan	December, 2010	Potential administrative plaintiff
GL01-PL	Guilin, Guanxi	December, 2010	Potential administrative plaintiff
LZ01-L	Lanzhou, Gansu	May, 2010	Lawyer
LZ02-L	Lanzhou, Gansu	May, 2010	Lawyer
LZ03-L/J	Lanzhou, Gansu	May, 2010	Lawyer, former judge
LZ04-L	Lanzhou, Gansu	May, 2010	Lawyer
QD01-L/O	Qingdao, Shandong	June, 2010	Lawyer, former official
QD02-L	Qingdao, Shandong	June, 2010	Partner lawyer
QD03-L	Qingdao, Shandong	June, 2010	Lawyer
QD04-L	Qingdao, Shandong	June, 2010	Partner lawyer, founder
TJ01-P/L	Tianjin	January, 2010	Law professor, lawyer
TJ02-L	Tianjin	January, 2010	Lawyer
TJ03-L	Tianjin	January, 2010	Partner, law professor
TJ04-P/J	Tianjin	January, 2010	Law professor, former judge
SH01-L	Shanghai	May, 2010	Lawyer
SH02-M	Shanghai	May, 2010	Marketing executive foreign law firm
SH03-L	Shanghai	May, 2010	Chinese lawyer at Hong Kong firm
SH04-PA	Shanghai	May, 2010	Patent agent at a Hong Kong patent agency
SH05-L	Shanghai	May, 2010	Lawyer at a foreign firm
SH06-L	Shanghai	May, 2010	Foreign lawyer at a foreign firm
SH07-L	Shanghai	May, 2010	Chinese lawyer at a foreign firm
SH08-L	Shanghai	May, 2010	Partner lawyer
SH09-FL	Shanghai	May, 2010	Hong Kong lawyer foreign firm
SH10-FL	Shanghai	May, 2010	Foreign lawyer at a foreign firm

SH11-BD	Shanghai	May, 2010	Business development executive at a foreign law firm
SH12-L	Shanghai	May, 2010	Partner lawyer
SH13-S	Shanghai	May, 2010	Partner lawyer
SH14-L	Shanghai	May, 2010	Chinese lawyer at a foreign firm
SZ01-L	Shenzhen Guangdong	November, 2011	Partner lawyer*
WG01-FL	Outside China	March, 2011	Foreign lawyer at foreign firm*
WG02-FL	Outside China	September, 2011	Foreign in house counsel at multinational in China
WG03-FL	Outside China	August, 2010	City attorney in California
HK01-FL	Hong Kong	January, 2011	Foreign lawyer
HK02-FL	Hong Kong	June, 2011	Originally Chinese lawyer at a foreign firm
HK03-FL	Hong Kong	December, 2011	Barrister*

* These interviews were either partially or completely conducted through e-mail or other remote communication.

RANDOMLY SAMPLED INTERVIEWS

Interview Code	Location	Time of Interview	Head or Assistant Head of Firm	Partner	Original or Additional Sample
BJ01N	Beijing	July, 2010	No	Yes	Additional
BJ02S	Beijing	July, 2010	No	No	Original
BJ03N	Beijing	July, 2010	Yes	Yes	Additional
BJ04S	Beijing	July, 2010	No	No	Original
BJ05S	Beijing	July, 2010	No	Yes	Original
BJ06N	Beijing	July, 2010	Yes	Yes	Additional
BJ07S	Beijing	July, 2010	No	No	Original
BJ08S	Beijing	July, 2010	Yes	Yes	Original
BJ09N	Beijing	July, 2010	No	No	Additional
BJ10N	Beijing	July, 2010	No	No	Additional
BJ11N	Beijing	July, 2010	No	No	Additional
BJ12S	Beijing	July, 2010	No	No	Original
BJ13N	Beijing	July, 2010	No	No	Additional
BJ14N	Beijing	July, 2010	No	No	Additional
BJ15N	Beijing	July, 2010	No	No	Additional
BJ16N	Beijing	July, 2010	No	No	Additional
BJ17N	Beijing	July, 2010	No	No	Additional
BJ18N	Beijing	July, 2010	No	No	Additional
BJ19S	Beijing	July, 2010	No	No	Original
BJ20N	Beijing	July, 2010	Yes	Yes	Additional
BJ21S	Beijing	July, 2010	Yes	Yes	Original
BJ22S	Beijing	October/November, 2010	No	No	Original
BJ23S	Beijing	October/November, 2010	No	No	Original
BJ24N	Beijing	October/November, 2010	No	No	Additional
BJ25N	Beijing	October/November, 2010	Yes	Yes	Additional
BJ26S	Beijing	October/November, 2010	Yes	Yes	Original
BJ27S	Beijing	October/November, 2010	No	No	Original

BJ28S	Beijing	October/November, 2010	Yes	Yes	Original
BJ29S	Beijing	October/November, 2010	No	No	Original
BJ30S	Beijing	October/November, 2010	Yes	Yes	Original
BJ31N	Beijing	October/November, 2010	Yes	Yes	Additional
NB01S	Ningbo, Zhejiang	August, 2010	No	No	Original
NB02S	Ningbo, Zhejiang	August, 2010	No	No	Original
NB03N	Ningbo, Zhejiang	August, 2010	Yes	Yes	Additional
NB04S	Ningbo, Zhejiang	August, 2010	No	No	Original
NB05S	Ningbo, Zhejiang	August, 2010	No	No	Original
NB06S	Ningbo, Zhejiang	August, 2010	No	No	Original
NB07S	Ningbo, Zhejiang	August, 2010	Yes	Yes	Original
NB08S	Ningbo, Zhejiang	August, 2010	No	No	Original
NB09S	Ningbo, Zhejiang	August, 2010	No	Yes	Original
NB10N	Ningbo, Zhejiang	August, 2010	No	No	Additional
NB11S	Ningbo, Zhejiang	August, 2010	No	No	Original
NB12N	Ningbo, Zhejiang	August, 2010	No	No	Additional
NB13S	Ningbo, Zhejiang	August, 2010	No	No	Original
NB14S	Ningbo, Zhejiang	August, 2010	No	No	Original
NB15N	Ningbo, Zhejiang	August, 2010	No	No	Additional
NB16S	Ningbo, Zhejiang	August, 2010	No	Yes	Original
NB17S	Ningbo, Zhejiang	August, 2010	No	No	Original
NB18S	Ningbo, Zhejiang	August, 2010	No	No	Original
NB19S	Ningbo, Zhejiang	August, 2010	No	Yes	Original
NB20S	Ningbo, Zhejiang	October, 2010	Yes	Yes	Original
NB21S	Ningbo, Zhejiang	October, 2010	Yes	Yes	Original

NB22S	Ningbo, Zhejiang	October, 2010	Yes	Yes	Original
SH01S	Shanghai	October, 2010	No	No	Original
SH02N	Shanghai	October, 2010	No	Yes	Additional
SH03S	Shanghai	October, 2010	Yes	Yes	Original
SH04S	Shanghai	October, 2010	Yes	Yes	Original
SH05S	Shanghai	October, 2010	No	No	Original
SH06S	Shanghai	October, 2010	No	Yes	Original
SH07S	Shanghai	October, 2010	No	No	Original
SH08S	Shanghai	October, 2010	No	No	Original
SH09S	Shanghai	October, 2010	No	No	Original
SH10N	Shanghai	October, 2010	No	No	Additional
SH11N	Shanghai	October, 2010	No	No	Additional
SH12S	Shanghai	October, 2010	No	Yes	Original
SH13N	Shanghai	October, 2010	Yes	Yes	Additional
SH14S	Shanghai	October, 2010	No	Yes	Original
SH15S	Shanghai	October, 2010	No	Yes	Original
SH16S	Shanghai	October, 2010	No	No	Original
SH17S	Shanghai	October, 2010	No	No	Original
SH18N	Shanghai	October, 2010	No	No	Additional
SH19S	Shanghai	October, 2010	No	No	Original
SH20N	Shanghai	October, 2010	No	No	Additional
SH21S	Shanghai	October, 2010	No	No	Original
SH22N	Shanghai	October, 2010	No	Yes	Additional
XX01S	Rural Hunan	December, 2010	No	No	Original
XX02S	Rural Hunan	December, 2010	Yes	Yes	Original
XX03S	Rural Hunan	December, 2010	No	Yes	Original
XX04S	Rural Hunan	December, 2010	No	N/A*	Original
XX05S	Rural Hunan	December, 2010	No	N/A*	Original
XX06S	Rural Hunan	December, 2010	Yes	N/A*	Original
XX07S	Rural Hunan	December, 2010	No	Yes	Original
XX08N	Rural Hunan	December, 2010	No	No	Additional
XX09S	Rural Hunan	December, 2010	No	N/A*	Original

XX10S	Rural Hunan	December, 2010	No	No	Original
XX11S[177]	Rural Hunan	December, 2010	Unknown	Unknown	Original
XX12S	Rural Hunan	December, 2010	No	No	Original
XX13S	Rural Hunan	December, 2010	No	Yes	Original
XX14S	Rural Hunan	December, 2010	Yes	Yes	Original
XX15S	Rural Hunan	December, 2010	No	No	Original
CS01S	Changsha, Hunan	November, 2010	No	No	Original
CS02N	Changsha, Hunan	November, 2010	No	No	Additional
CS03S	Changsha, Hunan	November, 2010	No	No	Original
CS04S	Changsha, Hunan	November, 2010	No	No	Original
CS05S	Changsha, Hunan	November, 2010	No	No	Original
CS06S	Changsha, Hunan	November, 2010	No	Yes	Original
CS07S	Changsha, Hunan	November, 2010	Yes	Yes	Original
CS08S	Changsha, Hunan	November, 2010	No	Yes	Original
CS09N	Changsha, Hunan	November, 2010	No	Yes	Additional
CS10S	Changsha, Hunan	November, 2010	No	No	Original
CS11S	Changsha, Hunan	November, 2010	Yes	Yes	Original
CS12S	Changsha, Hunan	November, 2010	No	Yes	Original
CS13S	Changsha, Hunan	November, 2010	No	No	Original
CS14S	Changsha, Hunan	November, 2010	No	No	Original
CS15N	Changsha, Hunan	November, 2010	No	No	Additional
CS16N	Changsha, Hunan	November, 2010	No	No	Additional
CS17S	Changsha, Hunan	November, 2010	No	Yes	Original
CS18N	Changsha, Hunan	November, 2010	No	No	Additional

[177] This interview was terminated almost immediately as the informant had to leave unexpectedly. Instead, I interviewed XX12S, a more junior lawyer at the same firm.

CS19N	Changsha, Hunan	November, 2010	No	No	Additional
CS20S	Changsha, Hunan	November, 2010	Yes	Yes	Original
CS21N	Changsha, Hunan	November, 2010	No	No	Additional
CS22N	Changsha, Hunan	December, 2010	Yes	Yes	Additional
CS23N	Changsha, Hunan	December, 2010	No	No	Additional
CS24S	Changsha, Hunan	December, 2010	Yes	Yes	Original
GL01S	Guilin, Guanxi	February, 2011	No	No	Original
GL02S	Guilin, Guanxi	February, 2011	No	No	Original
GL03S	Guilin, Guanxi	February, 2011	Yes	No	Original
GL04S	Guilin, Guanxi	February, 2011	No	No	Original
GL05S	Guilin, Guanxi	February, 2011	No	No	Original
GL06S	Guilin, Guanxi	February, 2011	No	Yes	Original
GL07S	Guilin, Guanxi	February, 2011	No	No	Original
GL08S	Guilin, Guanxi	February, 2011	No	No	Original
GL09S	Guilin, Guanxi	February, 2011	No	No	Original
GL10L	Guilin, Guanxi	February, 2011	Yes	No	Additional
GL11S	Guilin, Guanxi	February, 2011	No	No	Original
GL12S	Guilin, Guanxi	February, 2011	Yes	Yes	Original

* As state-owned or quasi-state-owned institutions, these firms do not have a partnership structure.