

**Asia Research Institute
Working Paper Series No. 175**

**Lawyers, Not Law?
A Taxonomy of the Legal Profession in China**

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February 2012



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Lawyers, Not Law? A Taxonomy of the Legal Profession in China

INTRODUCTION

In the three decades following the beginning of the reform period, China has moved from a society regulated almost entirely by government to one regulated to some extent by law. While the changes in the legal system have been sweeping, they have not been so extensive as the changes to Chinese society as a whole. Nor has the development of the legal system led to any substantive change to the dominance of the party-state. The ranks of the legal profession are growing day by day, but we are still faced with many unanswered questions about the influence of lawyers on the Chinese legal system and vice versa.

This brief paper aims to address some of the challenges that face academics as they study the landscape of law in China. It will not attempt to summarise or assess the totality of scholarship in the area. Rather, it aims to identify some important conceptual gaps in the study of law in China, particularly in the English-language research. From these gaps, it suggests a “paradigm shift” under which the praxis of law in China might be better understood.

I propose that the study of law in China should concentrate more on the background and behaviour of legal practitioners. I justify this in the first part of the paper, where I examine the lack of a coherent academic discussion on lawyers as individuals, and justify my argument that the legal system in China can be most usefully analysed by examining who legal practitioners (by which I mean untrained legal workers as well as qualified lawyers) are and what they do from day to day.

Following on from this, the paper then considers how scholars might begin to make a systematic study of legal practitioners. As a starting point, this paper proposes a series of dyadic continua (qualified/unqualified, urban/rural, moral/financial, rights/rules, international/national, individual/collective, government/resistance). These continua, on which every Chinese lawyer will fall at some point, are intended first as a means of describing the diversity of the Chinese legal profession. Second, they are intended as a more sophisticated way of classifying Chinese lawyers: one which does not rely on two or three discrete categories, as previous attempts have done, but instead functions on the principle that there are many different aspects to legal life in China, and that lawyers may change their approach to practice from time to time as their circumstances change. It also acknowledges that the relationship between lawyers and the state is a fluid, negotiative one, and that lawyers often shift their strategic approach as the state chooses to exercise its authority.

Having proposed this taxonomy, the paper makes some suggestions about how it might be used. First, it proposes that the taxonomy may be useful in unifying various disparate studies of stakeholders in the use of the law in China: for example, those covering corporate lawyers, rights lawyers, legal academics, rights entrepreneurs, barefoot lawyers, and clients of lawyers. Second, the paper considers the use of the taxonomy in generalizing about the development of the Chinese legal profession. In particular it considers how scholars may be able to enhance their understanding of the development of a “legal elite” or a corporatized “demographic profile” in Chinese lawyers.

CONCEPTUAL GAPS IN THE STUDY OF CHINESE LAW

There have been many Western studies of “law” in China. Many have relied on a flawed assumption. This is the idea that, since the Chinese legal system went through an intensive process of increased sophistication and liberalization immediately after the reform period, and since the Chinese legal system is not yet as sophisticated or as independent as Western legal systems, it should be assumed that the further modernization of the Chinese legal system is an outcome desired by the Chinese party-state, the Chinese public, or international clients of Chinese law, or all of these. Hence these studies of law in China normally examine it through the prisms of various normative narratives. These include “modernization”, where it is supposed that laws and law enforcement become more sophisticated to cater for new possible eventualities; “rule of law”, where the Chinese legal system becomes more predictable and less linked to the whims of individuals and the party-state, and “formality to substantiveness”, where the stated intentions of laws and legal processes are enforced substantially and not just superficially.

The meta-narrative underlying all of these viewpoints is what William Alford (2002) has called a “model of convergence”: the idea that, in the long term, the Chinese legal system will become like the Western system, which the model promotes as being an ideal or a preferable state. There are many reasons to doubt this model. The factor I wish to concentrate on in this paper is that the intended purposes of law in China are to facilitate the economic growth of the party-state and its affiliated bodies and to prevent social unrest. It is clear that the development of the market economy has been the main stimulus for the development of statute law in reform-period China (see Potter 2001; Peerenboom 2002; Chen 1998). But, in the 1980s and 1990s at least, this was coupled with a government discourse (often labeled *pufa* or “legal dissemination”) which promoted law as a beneficial and worthy thing in and of itself and which encouraged everyday citizens to use the law (Exner 1995; Kinkley 2000; Benney 2012).

However, in the long term, law, as a practical entity separate from the state (according to the principles underpinning the rule of law), or as an ideal means of governance, is of limited interest to the party-state. To quote Liebman (2009): “The Party-state has continued to view law primarily as a tool for achieving policy goals, most notably economic development. Legal reforms have yet to impose significant restraints on the Party-state.” Another increasingly visible means of substantiating this is the recent trends which suggest the Chinese party-state is moving away from a discourse of legal promotion and towards a discourse of “stability maintenance” (Xie and Shan 2011). Dispute resolution, therefore, tends to take on forms which might be unfamiliar to Western observers. For example, the traditional Chinese emphasis on *guanxi* or interpersonal “connections” leads to a lower frequency of litigation (see Michelson 2007 and 2008). Disputes are often resolved by negotiation, by out-of-court settlements, or simply by ignoring the legal problem. Law enforcement officers often act without legal justification, a situation clearly evidenced by the frequent detention without trial of political dissenters. Judges are underqualified, closely linked with the apparatus of government, and frequently corrupt, so even legal cases are often resolved by means other than examining the letter of the law and applying it to particular cases.

At the same time, the rise of non-state participants in the legal process is striking. The legal dissemination movement of the 1990s, now substantially abandoned by the party-state, combined with a substantial deregulation of the media, has led to the media playing a new role in the promotion of disputes. The emergence of a class of people who exploit the media to promote legal affairs — people known, for example, as *diaomin* (“cunning people”), or *weiquan renshi* (“rights defenders”) — has led to a new popular awareness of law as a problem-solving strategy rather than as a social ideal. This demand for localized, personalized dispute resolution, facilitated by non-state actors, has been one reason for the emergence of the “barefoot lawyer” (Ying 2010).

I use these ideas — the diversity of law-using activities in China, the primacy of the party-state, the complexity of Chinese society, the absence of legal non-government organizations, and the importance of *guanxi* — to suggest that the study of law from an institutional or a structural perspective has some weaknesses. In contrast, I propose that the ethics, morals and backgrounds of individual *lawyers* (or pseudo-lawyers) are increasingly important in China. Also, even if one supposes that the concept of law will aid liberalization in China, and indeed that liberalization is the most correct or desirable option for China, it is clear that this liberalization will come from sources other than the official legal apparatus.

But this brings us to a new problem. Studies of lawyers *per se* in China are still fairly limited, and most writers concentrate only on one sector. The literature in Chinese concentrates on a somewhat different narrative: it is focused in particular on the modernization of Chinese society, the adoption of the “rule of law” (a term which is nebulous in the extreme), and the consequent organization and professionalization of the legal system. Generally speaking, Chinese legal academia focuses on the response to new laws and new areas of law (changing intellectual property regimes, for example), system-level modernization (increasing the effectiveness of the judiciary), and jurisprudence (for instance, the question of whether the Western rule of law concept is applicable in China). Even the more renowned Chinese scholars, such as Zhu Suli and Liang Zhiping, have concentrated very little on lawyers as individual actors: the interest seems to lie in the legal profession as a whole and less on its constituent parts.¹

A useful starting point for a fresh analysis of the legal profession in China is Alford’s 2002 article. In this article, Alford suggests that the Chinese legal profession is unsuited to liberalization, and thus that the hope of the West, that political modernization will come through the legal profession, is unrealistic. He provides three arguments for this (Alford 2002, 6-7): first, that the role of the Chinese legal profession is overstated; second, that the nature of the profession has been misunderstood; and third, that there is no empirical justification for the trend of modernization. Behind Alford’s highly polemical article lie two further assumptions: that the development of the law in China ultimately might not take a form that Western observers would prefer, and that Western observers of law in China are culturally unaware or biased or both.

A decade after Alford wrote this, it is possible to make some new observations. Data-focused studies, such as those done by Ethan Michelson (2007 and 2008), demonstrate that not all Western academics are shy of intensive quantitative fieldwork, and there is a thread of scholarship emerging which suggests that Chinese legal practice is a distinct field of its own, and one from which Western scholars might in fact learn. However, assuming for now that Alford was correct in 2002, what can be said about the development of lawyering in China in the 2000s?

¹ Although it is just one example, the book edited by Tang (2006) illustrates this: it is titled *Lüshi shiwu yanjiu* (An Investigation of Lawyers’ Practice), but its contents consists almost entirely of discussions of particular laws and ways in which lawyers might respond to those laws. Works on legal ethics and legal professionalism display a similar conceptual isolation, and there is as yet no large-scale qualitative study of how lawyers and legal workers behave in China. Chen (2004) makes the argument that Zhu Suli is chiefly a philosophical type legal sociologist, and it does appear that his work concentrates on the macro-level of policy making and broad characterisation rather than the micro-level of everyday lawyering. Again, this is only one case, but it does serve to demonstrate the paucity of analysis of lawyers’ normal behaviour in both Chinese and English. The primary focus of analysis of legal behaviour in China has been the work of quasi-lawyers (“second lawyers”, “barefoot lawyers”, and so on), which I touch on below.

Three new challenges to Alford's work have developed during the past decade. First, the legal profession (in the sense of university-trained, state-registered lawyers) has grown considerably. Komaiko and Que's research (2009) demonstrates this fairly clearly. To take one example: King and Wood, the largest Chinese corporate law firm, grew substantially during the 2000s. At one stage, it represented the highest-valued company in the world (Lavelle 2007) and it now has sufficient size and authority to be able to negotiate mergers with substantial Australian law firms (Freedman and Swift 2011). Complex international financial arrangements have necessitated the growth of these necessarily large and well-regulated enterprises. A later article by Alford himself (Alford 2011) acknowledges the development of the legal profession in the 2000s, but at the same time it does not suggest that the growth of the legal profession represents a significant change in access to legal aid for those who have traditionally not had it, not does it appear to have affected Chinese society or political discourse (Alford 2001, 60). It might be better to regard this "professionalization" of the legal profession merely as a response to economic growth.

Second, the informal legal sector has developed dramatically (Ying 2010). "Legal workers" (*falü gongzuozhe*), a term which might include unqualified lawyers ("barefoot lawyers" (*tu lüshi*) or "black lawyers" (*hei lüshi*)) or lawyers disqualified for their taking on human rights cases ("rights defence lawyers" (*weiquan lüshi*)), as well as individuals who act as untrained legal aid workers for clients. Even if these options are unavailable, people with disputes might still make use of a range of community-based "fixers", who may or may not know anything about law. Below I consider various perspectives on these "rice-roots legal workers", as Alford (2011) calls them: in general, however, it is clear that the market for legal services is increasingly complicated, and it is often difficult to predict what form of legal services will be successful at any given place or time.

Third, as I have already outlined above, the government's attitude to law has changed. For example, while it would be a mistake to say that the party-state is universally hostile to the use of courts by citizens or the process of petitioning and the "letters and visits" system (*shangfang* and *xinfang*), the processes by which citizens can seek legal recourse are being undermined both by local and central governments. Fearing the cost of compensation and a high administrative burden, local governments have gone so far as to physically prevent petitioners from submitting their complaints to higher authorities. At a central level, a discourse of "stability maintenance" (*weiwen*), enforced at a local level by *weiwenban* or "stability maintenance offices", is providing a new means of localised non-legal dispute resolution, in this case funded and facilitated by government (Xie and Shan 2011).

So where do legal practitioners fit in this picture? The current academic literature on this topic brings us to a separate problem: the lack of a coherent theoretical framework applicable to lawyering in China. This framework is missing because so few writers have concentrated on legal practitioners as a whole. Rather, authors have tended to examine specific sectors of the legal community, ignoring both the community as a whole and the interrelationships between different sectors. For example, the work of Cohen and Pils (2008 and 2009), of Fu and Cullen (2007, 2008 and 2011), and of Feng Chongyi (2008 and 2009), all of which concentrates on human rights lawyers and their campaigns, makes little attempt to engage with lawyers who work in conventional legal fields, despite the considerable overlap between the two groups. Similarly, Komaiko and Que's recent work (2009), despite claiming to provide an analysis of lawyers in China as a whole, makes little attempt to consider the informal legal sector or that sector which is opposed to the state. Even further, studies of independent or unqualified legal practitioners, such as Ying Xing's (2010), make little attempt to consider how these practitioners interact with qualified and registered lawyers.

This atomized approach to the study of lawyers clashes with the actual praxis of law in China. The well-known case of Chen Guangcheng, the blind legal advocate currently imprisoned as a result of his local legal campaigns, effectively demonstrates that these nominally separate groups of lawyers

overlap all the time. Chen Guangcheng himself demonstrates the breadth of the “barefoot lawyer” idea; he has been largely self-educated, but over time has acquired skills and knowledge comparable to a registered lawyer. This aside, an even more notable characteristic of Chen’s campaigns has been the support he has received from highly trained human rights lawyers, who supported and promoted his campaigns from the mid-2000s onwards: Fu and Cullen (2011, 40) refer to this as “radicalization”. The recent case where the actor Christian Bale attempted to visit Chen in Linyi, where he is under house arrest (Branigan 2011), further demonstrates the links between local lawyering in China and complicated trans-national networks of activism and communication. Such networks occur both on the ground, where lawyers and legal workers often form informal personal networks (Pils 2009; Benney 2012), and online, where social networks like Twitter allow lawyers and legal workers to communicate with clients, non-government organizations, and the general public (Benney 2011).

All this demonstrates that it is extremely difficult to identify an “average” lawyer in China. The breadth and diversity of the legal market makes it difficult to find a class of legal practitioners about whom useful generalizations can be made. This observation ties in with a new problem. It is clear that the “background” of particular lawyers — their social status before becoming a lawyer, their ethnicity, their educational history, their personal wealth, and so on — affects what type of legal work they do and in the way in which they do it. Lawyers have generally been high-status professionals, able to develop close links with government and corporations, but at the same time they have sometimes acted as defenders of law and rights *against* governments and authorities who have aimed to contravene them.

These different paradigms are expressed differently in different countries. Countries which have developed legal systems through the 20th century have taken dramatically different paths to the formation of their own characteristic legal profession. To consider some of the “Asian tigers”, for example: Japan’s legal sector remains relatively limited. It has been characterized as an “alegal” society, where non-legal means of dispute resolution are more common than the use of the courts. South Korea’s legal professionals, however, played an important role in the process of democratisation during the 1970s and 1980s, and created substantial links with civil society and non-government organizations (Choi 2005). The increased importance of law in society seems to have led to an increasingly formalized legal sector, where litigation is more common than in Japan.

In Latin America, different trends are evident. Affirmative action programs have made a substantial difference to entry to law schools and universities. Greater liberalism in governance and reforms to legal education have led to law schools being more politically critical. The consequent creation of a sector of political activist lawyers and legal academics, often originating from less privileged backgrounds, has made an impact on political discourse in Latin America as a whole (Pérez-Perdomo 2005).

I touch on these paradigms of legal modernization mostly as a means of emphasizing what has *not* happened in China. Models describing the modernization of other post-socialist and post-authoritarian legal systems, from the 1960s onward, do not work for China. This is simply because the conditions are not comparable. The substantial difference between China and these other countries, as Alford indicates, is the relative dominance of the party-state.

The more obvious potential trends in China are the development of a corporatized “legal elite” (as Fix-Fierro and López Ayllóon (2005) have observed in Mexico) or a corporatized “demographic profile” (as Thornton(1998 and 2005) observes in Australia). This is to say that legal practitioners in China tend to originate from privileged sectors of society, and also that, by accident or design, they tend to form networks with the higher echelons of government, with the Communist Party, and with

the judiciary. Komaiko and Que’s anecdotal exploration of the training of lawyers in China substantiates this. Most law students enter law school directly from high school (Komaiko and Que 2009, 92), based on their final examination scores. In China one cannot become a registered lawyer without a tertiary qualification. Given the discrepancies in access and attainment in education between rural and urban areas (Hannum et al 2011; Zhu 2011), this suggests that it is likely that registered lawyers represent a historically more wealthier sector than the population as a whole.

Given the extremely low number of lawyers in China relative to the total population, this results in a specific demographic profile for registered lawyers which could be called “elite”. Equally, however, the dominance of the party-state in China also means that these demographically elite lawyers have not yet developed, as a group, any significant political influence. Komaiko and Que suggest that students are often motivated to study law because of patriotism and the desire for personal wealth (Komaiko and Que 2009, 92-3) — both of which aims seem to align closely with those of the state — but the influence of lawyers on the workings of government is minimal.

To summarise this section, then, while there are many significant gaps in the study of law in China, the most important relate to who lawyers are as people, and what they do from day to day. The previous attempts that have been made to deal with this issue have tended to concentrate only on specific sectors of lawyers, thus ignoring the considerable overlap and potential for development in a wide range of legal sectors. The following section will attempt to develop structures under which the whole of the legal profession in China might be examined.

DEVELOPING A NEW TAXONOMY

I propose a method of classifying lawyers which aims to combat these conceptual gaps. The proposed taxonomy functions partly as a practical structure which others might use in their explorations of law in China, and partly as a pure thought experiment. The taxonomy uses the dyads below:

qualified	←-----→	unqualified
urban	←-----→	rural
financial	←-----→	moral
rules	←-----→	rights
national	←-----→	international
collective	←-----→	individual
government	←-----→	resistance

These dyads function as continua: any given lawyer will fall at a particular point on each continuum. For example, many lawyers may be wholly urban, or wholly rural, while others (Chen Guangcheng, for example) might work in semi-urban areas, or divide their time between urban and rural work. That said, it may be useful to consider the traits on the left-hand side to be characteristic of supporters of the corporatised party-state, and those on the right to be characteristic of internationalised supporters of “Western” legal norms, or philosophical notions of justice. Below, I explain why each dyad is significant to the taxonomy.

Qualified/unqualified

This dyad refers to the extent to which the lawyer has undertaken formal studies in law. Registered lawyers in China must have a university degree and pass an examination set by the government. Hence most registered lawyers may be called “qualified” to some extent. At the same time, there

can be different levels of qualification: for example, lawyers who have undertaken postgraduate study, or studied overseas (particularly common for lawyers trained shortly after the reform period began).

Non-registered legal practitioners have a wide range of skills. Deregistered lawyers, such as Teng Biao or Xu Zhiyong, may have extremely advanced qualifications. Ying Xing (2010) describes a number of “barefoot lawyers” who have no formal qualifications apart from the know-how acquired from practice. In between these sectors lie paralegal workers and legal workers, such as Chen Guangcheng, with qualifications in fields other than law.

Urban/rural

Law firms, where the majority of lawyers practise, are found mainly in the larger urban centres. The shortage of registered lawyers in China is thus most obvious in rural areas. The need for dispute resolution in the countryside is met in a number of different ways. Where disputes cannot be solved by the state law enforcement apparatus, unregistered and unqualified legal workers sometimes act to resolve them. Hence the practice of law in urban and rural areas is different. Liu and Wu (2010) contend, for example, that the number of rural non-registered “legal service providers” (which range, in their analysis, from government legal aid workers to unregistered barefoot lawyers, and which roughly amount to the same people as Alford (2011)’s “rice-roots legal workers”) is restricting the development of the professional legal sector in rural areas. The implication of this — that in rural sectors, the formal and informal legal sectors are in competition with each other —

Financial/moral

Komaiko and Que (2009, 92-3) suggest that the financial rewards of becoming a lawyer are a significant motivating factor for law students. In principle, financial gains are not incompatible with a moral aspect to lawyering: undertaking *pro bono* work for underprivileged clients, taking on rights-based cases, and so on. In practice, corporate lawyering (conducted in larger law firms, with higher salaries for lawyers) and rights-based lawyering (conducted by individuals, small law firms, and deregistered lawyers, normally with no or low payment for the legal practitioner) tend to be conducted by separate groups of people in separate organizations. This tendency is not just confined to China: as Kronman (1995) suggests, the separation of the financial motivation to be a lawyer from the moral reasons for lawyering is likely to happen in any country where there is a network of large corporate law firms. Hence the distinction between lawyering for money and lawyering to benefit others is quite pronounced.

The moral imperative to work in the law also takes various forms. Even in corporate lawyers, Komaiko and Que (2009, 94-5) identify a patriotic desire to serve in the development of China. This instinct does not seem to be manifested in any particular concrete way, other than that most registered lawyers obey the demands of the party-state. For unofficial or deregistered lawyers, however, a moral imperative — to help the weak and the victimized against what is generically termed *yuan* or “injustice” (Pils 2009) — plays an important role in their work, and is one of the key reasons that they will do legal work even when they are not paid or when they themselves are put at risk. The source of this moral imperative is diffuse. Some important factors that shape lawyers’ desire to help others include their having internalized international concepts of human rights (as described below), their personal experience of hardship (a very notable case being Gao Zhisheng’s (Gao 2006)), and religious beliefs (one example being Gao’s own religious beliefs, as well as the conversion to Christianity, and subsequent organization of the Shengshan Church and its affiliated research institute, of legal scholar Fan Yafeng (Release International 2011)).

Rules/rights

The Chinese government acknowledges various rights treaties, and includes the protection of human rights in its constitution. Despite this, the level of protection of these generic rights is extremely low. We can thus distinguish “rules” — laws and legal processes, often for a commercial purpose, with measurable standards and outcomes — from “rights” — genericised standards for how citizens should behave to each other, promulgated in international public documents.

The development of the *weiquan* (or “rights defence”) idea (Benney 2012) illustrates that the notion of rights, and especially these international human rights, has had a deep effect on particular groups of lawyers. From the mid-2000s onwards, activist lawyers have used rights — both China’s constitutional rights and the rights in the United Nations charters — as a spur for their activities (Pils 2007; Feng 2009). This has been done to identify areas of weakness in Chinese governance and cases where there was a perceived need for legal intervention, and to educate others about these problems. Perhaps more importantly, the idea of rights has acted as a central rhetorical focus for lawyers and legal practitioners. Championing rights has allowed lawyers and legal practitioners to form communities, particularly online communities, even when they are working in different areas or on different types of cases. Since these rights lawyers are often persecuted by the party-state, linking their legal work with the concept of rights is normally a significant decision for a lawyer.

National/international

The distinction between the legal culture promoted by the Chinese party-state (emphasizing economic growth) and internationalized rights norms has already been made clear, as has the effect of different educational backgrounds, including study overseas, on lawyers. Hence an immediate distinction can be drawn between “nationalized” lawyers, who follow the demands of the state, and “internationalized” lawyers, who use comparative law and notions of rights as a means of critiquing the party-state. At the same time, the increasingly trans-national nature of Chinese legal practice means that even commercial lawyers and others nominally loyal to the state may be dealing with international clients and foreign laws.

Collective/individual

The collective in this case does not merely signify the party-state. This dyad is intended to distinguish between those legal practitioners who have the support of larger institutions and those who do not. In particular it contrasts “barefoot lawyers” and other self-trained legal workers with those who have the support of collective organizations, whether they are government, law firms, or official or unofficial non-government organizations. Those individuals who have no structural support for their legal work rely on their influence within local communities (a strategy which O’Brien and Li (2006) discuss in depth) and increasingly on their manipulation of official and unofficial media (Benney 2011).

Government/resistance

This dyad is intended specifically to identify those lawyers and legal workers who identify as being opposed to the government. Komaiko and Que note that many, if not most, registered lawyers are dissatisfied with some of the policies of the party-state, but this sense of dissatisfaction rarely leads to conscious acts of resistance. Patriotism and a desire to serve the state, as well as fear of the consequences of resistance, appear to be motivating factors to stay loyal to the government in the long term.

While resistance to the party-state is now relatively commonplace in China, and the phenomenon of “rightful resistance” (as described by O’Brien and Li (2006)) is also well-documented, specifically legal resistance movements are a relatively recent development. These movements include formal organizations like Gongmeng (the Open Constitution Initiative) and the Charter 08 movement (Pils 2009), as well as informally formed networks which are often online. Such movements are generally headed by lawyers or legal academics (such as Xu Zhiyong and Teng Biao) or people with a high level of legal knowledge (like Hu Jia or Fan Yafeng).

Most of these activist lawyers and groups demand some kind of reform of the party-state, but the degree of change demanded varies. It may be useful to distinguish between those activists who merely demand some sort of legal reform, for example to court processes, and those who demand more substantial reforms to the structure of government. That said, most of the well-known activist lawyers have been agitating for far-reaching changes rather than minor ones, as the “radicalization” idea proposed by Fu and Cullen (2011) would indicate.

HOW MIGHT THE TAXONOMY BE USED?

I begin this section by reiterating my earlier observation: there is a paucity of literature describing the day-to-day conduct and moral landscape of lawyers in China, and that which does exist tends to be highly polemical (like Alford’s work), overly glib (like Komaiko and Que’s), or confined to specific fields, like Pils’ or Fu Hualing’s writing. This taxonomy, then, might be applied to any lawyer or legal practitioner in China, and might provide deeper insight into how different sectors of legal workers interact. Thus it might potentially draw together the studies of corporate lawyers, rights lawyers, legal academics, rights entrepreneurs, barefoot lawyers, and clients of lawyers which have been alluded to in this paper.

Second, the taxonomy poses questions about the greatest influences on legal practice in China. While all of the dyads in the taxonomy are important, it is unclear which have the greatest effect on what lawyers actually *do*, and how they interact with the state. Komaiko and Que suggest that lawyers are mainly motivated by money and the potential influence they might have, but this contention is woefully under-researched, and in any case is confined only to one specific type of legal worker. If we use the taxonomy to analyse legal processes in China, a more nuanced understanding of the motivation of lawyers might result. For example, are lawyers’ attitudes towards their work influenced more by information and education or by personal codes of ethics? Do law students and people interested in law see work in law as a means of maximize their economic, cultural, or their symbolic capital — or all of these? Is it possible for a person to be a registered commercial lawyer, and at the same time to oppose the Chinese party-state in some way? These questions remain unanswered, but a more multi-disciplinary approach to the study of law in China, one concentrated on people as much as statutes and processes, may prove fruitful.

This brings me to the polemical aspect of my paper. Chinese society is becoming increasingly complex. The growing number of different social stakeholders, each of which have distinctly different desires and aims, has led to the development of a complex social pluralism, which might be called “fragmented authoritarianism” (Mertha (2008)) or “post-socialism” (Zhang (2008)). The wide range of legal workers and activists is an example of this. The party-state is superimposed over this complex social landscape, attempting to maintain high rates of economic growth and to preserve its historical dominance over discourse. It is now replacing its always tenuous faith in law as a means of keeping social order with an uncompromising doctrine of “stability”.

In this environment, coherent legal culture is essentially a chimera. The study of law in China must move away from imposing external norms and standards on legal practitioners, or suggesting that essentialist portrayals of small sectors of legal workers are able to teach us about the totality of law in China. I suggest that it should embrace the complexity of legal practice in China and use a range of disciplines to ascertain the characteristics, the similarities and differences, of the different stakeholders in this legal landscape. It may seem paradoxical to suggest that a taxonomic structure might achieve this creative diversity: this is why I suggest that the taxonomy is more of a thought experiment than a form that must be filled out, and, in any case, the taxonomy is not supposed to be rigid. However, the present and future of Chinese lawyering seem to point towards the growth of individuals and growth with increasingly diverse qualifications, with a range of aims, and with a novel range of strategies to achieve these aims. The study of law in China must be ready to confront this diversity.

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