

HUMAN RIGHTS LAWYERS AND THE RULE-OF-LAW CAMP

BY WANG YI

Rights defense lawyers have enjoyed an increasingly high profile in the Chinese and international media. Less well known are scholars and administrators who are influencing legal and political discourse behind the scenes, and who could consolidate into a force for change—or an impediment to reform.

Chinese lawyers behind bars

Any discussion of human rights law in China must begin with the predicament of Chinese lawyers. Earlier this year, a lawyer friend of mine told me that last year in Beijing alone two lawyers were murdered and two committed suicide. Lawyers have a higher mortality rate than people in any other profession except gangsters. Li Jianqiang, a well-known human rights lawyer from Shandong Province, recently planned to publish a book entitled *Practicing Law: a Dangerous Profession*. Indeed, with the possible exception of defendants in the Chinese criminal justice system, no one faces greater danger than Chinese lawyers.

The lawyers' predicament

As the popular saying about Chinese prisons has it, "Even a puff of wind may blow you in, but even an ox can't pull you out." In mainland China, a lawyer who tries to be his client's "ox" risks prison himself. Zheng Enchong, a Shanghai lawyer who represented families who had been forcibly evicted from their homes, was thrown in prison. So was Zhu Jiuhu, a lawyer from Shaanxi Province who represented a private property rights advocate who sued the provincial government over the illegal seizure of oil wells. Both examples illustrate that the main conflict in today's China is not between the haves and the have-nots, but between the Communist Party and society, between government officials and ordinary citizens.

"Zhu Jiuhu's arrest filled us with dread." These words were posted on an online forum hosted by the government-controlled All China Lawyers Association (ACLA) by an indignant associate professor at Southwest University of Political Science and Law in Chongqing. A sword of Damocles hangs over all

Chinese lawyers. It fell on Zheng Enchong when he was convicted of "divulging state secrets" and on Zhu Jiuhu when he was convicted of "gathering a crowd to disturb social order." The sword can fall at any time and can manifest itself in all manner of judicial and extra-judicial methods, including the gangster methods that were used to seize the law licenses of Guo Guoting and Li Jianqiang.¹

The enduring threat of Article 306

One of the greatest threats facing criminal defense lawyers is Article 306 of the Criminal Law of 1997, popularly known as the "Lawyer's Perjury Clause."² Because witnesses are generally not questioned in court in Chinese criminal trials, court hearings are a formality and trials are essentially based on written evidence. Therefore, if a defense lawyer presents witness testimony that contradicts that presented by the public prosecutor, the procuratorial organs can easily abuse Article 306 and have the lawyer arrested on perjury charges. Public prosecutors are so arrogant that some have had lawyers taken into custody outside the courtroom even before the trial was over.

Nothing demonstrates the absurdity of China's judicial system more than the fact that lawyers who defend the rights of ordinary citizens have become the most defenseless professional group in society. Lawyers Zhang Sizhi and Mo Shaoping say, "We have never won a lawsuit."³ Because this has also been our sad experience, we know all too well that there is no justice for lawyers who represent political dissidents. To our knowledge, of the hundreds of thousands of lawyers in China, no more than 20 dare take on these kinds of cases. What is even more lamentable is that any lawyer who takes on the government in a court of law is better off losing than winning; indeed, God help a lawyer who wins!

The effect of Article 306 has become increasingly evident in recent years. Since the new Criminal Law was promulgated almost a decade ago, more than 500 lawyers have been imprisoned in China, with more than 300 of them charged with perjury under Article 306. The general view among lawyers and legal scholars is that most of these 300-plus cases were miscarriages of justice.⁴ The case of Kunming lawyer Wang Yibing was particularly chilling: having spent two years in prison, he was pronounced innocent on appeal. After his release, Mr. Wang was utterly disheartened, shaved his head and became a monk.



Legal scholar Fan Yafeng (L) and rights defense lawyer Gao Zhisheng.
Photo courtesy of Peacehall.com

His case shocked the legal community and disillusioned a great many idealistic young lawyers straight out of law school.⁵

Under these circumstances, the vast majority of lawyers are unwilling to take on criminal defense cases. A dark joke is making the rounds: “If you want to do legal work, for goodness’ sake don’t be a lawyer. If you want to be a lawyer, for goodness’ sake don’t take on criminal cases. If you take on criminal cases, for goodness’ sake don’t collect evidence. If you collect evidence, for goodness’ sake don’t depose witnesses. And if you fail to follow all of this advice, report straight to the detention center.” At present, less than 30 percent of criminal defendants in Chinese courts have a lawyer representing them. In 1990, lawyers in Beijing argued an average of 2.64 criminal cases per year. By 2000, the average had dropped to 0.78 cases per year. Despite official proclamations about progress in establishing rule of law, the number of lawyers willing to take on criminal cases is dropping steadily.

The dismal predicament of defense lawyers, coupled with the high salaries lawyers earn in other fields of law, is a serious deterrent to the vast majority of lawyers, who set aside their former ideals and indignation and turn to corporate and civil litigation. In society at large, ordinary people are increasingly dissatisfied with the fact that lawyers put profit before everything else—a trait that is actively encouraged by the authorities. For example, at a lawyers’ conference, a provincial judicial department director openly encouraged lawyers to focus more on making money and less on “poking your noses into matters that are none of your business.”

A lawyer’s main job is supposed to be defending people’s rights, which is why some people find the new term “rights defense lawyer” (*weiquan lishi*)⁶ redundant; but to the majority of lawyers, defending rights and upholding justice is an increasingly remote ideal. At the same time, many feel ashamed of their profession; in their heart of hearts, they recognize the value of freedom and the rule of law, and they know that it is men like Zhang Sizhi who are truly great lawyers. In 2003, Li Jianqiang posted an open letter on the online ACLA forum calling for the abolition of the crime of “subversion of state power.”⁷ Very soon, more than 100 trial lawyers had signed their names in support of Li’s letter. The

signatories are a vocal majority in the courts whose influence on China’s future cannot be suppressed forever.

Conflicting loyalties

While it is hard for lawyers to defend other people’s rights, it is even harder for them to defend their own rights. Although lawyers in mainland China are no longer government functionaries, they are still bureaucratically tied to administrative departments and the government-controlled ACLA. They appear to be separate from the government but are still too bound to it to be considered independent professionals. Needless to say, if lawyers are not independent, courts and judges are even less so. Lawyers face a number of restrictions:

- The Chinese government still does not permit individual lawyers to freely pursue their profession. To practice as lawyers, they have to enter into a partnership and be examined and approved by the government. Moreover, most provincial judicial departments collect what amounts to “protection money” from lawyers, although there is no legal foundation for such a practice. The annual “inspection fee” and ACLA fee come to 4,000–5,000 yuan per lawyer.
- Lawyers have no freedom of association. The day lawyers get their license to practice law, they automatically become permanent members of the ACLA.⁸ The ACLA charges them an annual membership fee in excess of 1,000 yuan, which amounts to little more than protection money paid to a criminal organization. Lawyers may not form their own unions or any other organizations. A lawyer friend of mine started a lawyers’ club in a teahouse, and less than a week later he was forced to close it down.
Nevertheless, a few local lawyers’ associations are trying to defend their members’ interests in the same way that China Central Television sometimes gets away with criticizing a few county governments. For example, when He Hongde, a lawyer from Xiehong County, Sichuan Province, was charged and convicted of perjury last year, the Sichuan Lawyer’s Association protested the verdict. But most of the time, lawyers’ associations do the government’s bidding because they are part of the bureaucratic apparatus, just like the labor unions within government departments.
- Lawyers do not have freedom to take on cases and defend their clients as they see fit. Judicial departments and lawyers’ associations get involved in all major cases, making outright demands to lawyers and putting pressure on them to influence their defense pleas and strategies. They may, for example, forbid a lawyer from entering an innocent plea for the defendant. Because lawyers cannot pursue their profession in an individual capacity; it is up to their law firm to choose cases for them. In practice most lawyers do take on cases in their private capacity, but strictly speaking this is illegal.

On November 10, 2001, Luoyang lawyers Li Subin and Li Wusi set an important precedent: they were the first lawyers in

China to sue a judicial administration department.⁹ Their suits broke new ground for the lawyer's rights defense movement in mainland China. Cases such as theirs, Wang Yibin's and a few others show the pitiful state of China's judicial system.

In the case of Li Subin, shortly after Li filed a suit against the bureau of justice (*sifa ju*) for collecting fees illegally, the bureau announced that it was postponing his annual registration, and thus deprived him of his livelihood.¹⁰ Li then sued the provincial justice department (*sifa ting*), but not a single one of Henan Province's 10,000 lawyers was willing to represent him. In the end, the only person willing to defend this lawyer's rights was a company director who had studied law on his own.

Although the story made headlines, not a single local lawyer dared attend any of the numerous trial sessions. When the court heard Li Subin's suit, the only person sitting in the public gallery was Li Wusi. When the court heard Li Wusi's suit, the only person sitting in the public gallery was Li Subin. The fact that the two lawyers were each other's only supporters shows just how isolated they were. When Li Wusi finally won his lawsuit at the end of 2002, he was fired from his law firm for "propagating feudal superstition." Li Subin was fired at the same time. The two lawyers then sued the bureau of justice a second time, and their trials dragged on until the end of 2004.

Nevertheless, the courage these two lawyers displayed in defending lawyers' rights inspired many others. In 2005, several law firms and lawyers in Qingdao, Shandong Province launched a movement to protest illegal fees as a form of unlawful confiscation of private property. But in the end, pressure from the authorities forced them to drop their suit. Several lawyers involved in the case vented their anger on the Internet, asking, "Are we lawyers or are we dogs?"

Clearly, in mainland China it is extremely difficult to be a rights defense lawyer.

The rise of the rule-of-law camp

In the spring of 2004, *Nanfang Zhoumo* (Southern Weekend) published an article on the rights defense movement that cited Fan Yafeng's idea of a "rule-of-law camp" (*zhengfa xi*).¹¹ The author argued that a group of liberal intellectuals with a background in law was gradually assuming the role previously played by humanist intellectuals to become the main current of the "civil rights movement" advocated by myself and the liberal forces within China. This is the second important aspect that needs to be mentioned in any discussion of the development of human rights lawyers in mainland China.

In recent years, effective discourse on institutional transformation in China has been split in two. On the one hand, political discourse continues to be conducted behind closed doors. On the other, there is strong momentum for rule-of-law discourse. This situation will affect the future direction of institutional change in four important ways:

The first trend is the rise of a rule-of-law camp composed of professional jurists. Outside the government system, a group of lawyers, scholars and freelance writers with a legal background has played an influential role in the rights defense movement and have promoted the democratization of main-

land China in recent years. Within the government system, another group of "rule-of-law" scholars is gaining increasing influence separate from traditional professional sectors such as the military, secretariats, political and ideological offices, industry, and science and engineering. Prominent examples are Xin Chunying, who was elected to the National People's Congress Standing Committee; Xia Yong, recently appointed Director of the National Administration for Protection of State Secrets; Qiang Shigong, who has recently gained prominence for espousing Maoist positions; and Li Bo, a member of the returned overseas generation (*haigui pai*) who has joined the financial management bureaucracy.

The second trend is the increasing legitimacy of rule-of-law discourse. As a result of China's technocratization in recent years, a new group of technocrats—the rule-of-law camp—has succeeded the "science and engineering camp." This trend has a real potential to influence China's future transition to constitutional

Some leading members of the "rule-of-law camp"

Fan Yafeng—A legal scholar at the Chinese Academy of Social Sciences, Fan is one of several Chinese scholars who have tried to elaborate a theory of constitutional government based on traditional Chinese values.

Xin Chunying—Dr. Xin Chunying was Director of the Institute of Law at the Chinese Academy of Social Sciences, and is now the deputy director of the Legislative Affairs Commission of the National People's Congress Standing Committee.

Xia Yong—Xia Yong earned an M.A. degree from Southwest University of Political Science and Law in 1986 and a Ph.D. from Peking University in 1998. From 2002 to 2004 he was director of the Institute of Law of the Chinese Academy of Social Sciences. In 2004 he served as deputy director of the Policy Research Office of the CPC Central Committee.

Qiang Shigong—Qiang Shigong (Jiang Shigong) earned his Ph.D. in Law from Peking University in 1999 and is now an associate professor at the Law School of Peking University. He was a visiting scholar at Columbia University from 2001-2002 and is the author of numerous books on constitutional law.

Li Bo—Li Bo studied at Tongji University Shanghai in 1977-1980 and earned an M.A. and a Ph.D. in economics from Kiel University. Until recently, Li was chairman of Bexcel Management Consultants, the leading local consulting firm in China. He has also worked with Towers Perrin/Tillinghast Consulting and Roland Berger & Partner in China and with Jebsen Co. in Hong Kong.

government, because the greatest obstacle to institutional reform in the post-totalitarian period is rejection of certain kinds of discourse. In relation to constitutional reform, the regime's enduring ideological discourse has long been at odds with political discourse outside the government, providing an opportunity for the rise of a third mode of discourse acceptable to both sides: discourse focused on rule of law.

Economic discourse thrived during the post-1989 hiatus. Because it was thought to offend neither side, it afforded unlimited scope for the expansion of the logic of the market. But economic discourse lacked the capacity and moral authority to assimilate political discourse. This rendered it incapable of speaking to the weightier questions of constitutional transformation and fundamental reform of the government system. In fact, economic discourse thrived in the 1990s because China's intellectuals as a whole abandoned political discourse.

Since the late 1990s, economic discourse on the question of property rights has become a springboard for debate on institutional questions and, increasingly, legal questions as well. The past five or six years have witnessed the renaissance of rule-of-law discourse, which had been both hemmed in and stimulated under the hegemony of economic discourse. Today, rule-of-law discourse is beginning to replace economic discourse as the most legitimate mode of discourse both inside and outside government. Even ministerial and provincial offi-



The trial of Pastor Cai Zhuohua (standing, center) served as a test case for rule-of-law camp intellectuals. Photo courtesy of Peacehall.com

cial are streaming into law schools to obtain M.A. and Ph.D. degrees. Professor He Weifang has been so angered by this that he has stopped recruiting graduate students.¹²

This shows that the main value of the rule-of-law camp has so far only been felt in the realm of discourse, rather than that of policy.¹³ Rule-of-law discourse has given part of the rule-of-law camp the resources to enter the ruling elite and climb the bureaucratic ladder. At the same time, it has given another portion of the rule-of-law camp the resources to promote political dissidents, human rights lawyers, social activists and even members of future political opposition parties with greater courage than most humanist intellectuals.

A review of the past century or so of institutional change in China shows that rule-of-law discourse has accomplished something unprecedented: it has enabled people inside and outside government, and on opposite ends of the political spectrum, to share a single mode of discourse. In 1989, the conversation between Li Peng and Wang Dan was arguably doomed to be a clash between dissonant discourses.¹⁴ But today, the rise of the rule-of-law camp provides a shared vocabulary and logic that lays the groundwork for dialogue between people with different political views inside and outside government. In this way, the rule-of-law camp has created an opportunity for the future democratization of China.

The third trend is that jurists are making laws and that lawyers are taking part in legislation. This issue lies beyond the scope of this essay.

The fourth trend is the successful assimilation of political discourse into rule-of-law discourse in recent years, illustrated by a 180-degree turn in the government and print media narratives: whereas in the past, it was said that "all issues are political issues," today all issues are legal issues. Except for June 4th (the Tiananmen Incident), Falun Gong and a few other specifically political issues, in mainland China almost all problems can be discussed under the cover of rule-of-law discourse.

Because of the rapid advance of rule-of-law discourse, the key word that best expresses China's future political transformation is no longer "democracy" but "constitutional government." This is the clearest indication that rule-of-law discourse has completely assimilated and integrated political demands. Likewise, in civil society and among political dissidents, "rights-protection" discourse is fast assimilating, integrating and displacing the traditional "democracy movement" discourse that was heard overseas and inside China.

In an era of political dictatorship, this strong trend has to some extent enabled popular political resistance to break through and assert its legitimacy in the face of the authorities. It is even compelling traditional opposition forces to confront a shake-up of "democracy movement" discourse. Overseas, part of the democracy movement is beginning to adjust its political demands and incorporate rights-defense discourse. The portion of the democracy movement that only talks about organizing political parties will inevitably be marginalized and excluded from the field of discourse that will largely determine the fundamental reform of China's government.

And yet, the assimilation of political discourse by rule-of-law discourse has also resulted in the expansion of rule-of-law

imperialism (*fazhi diquo zhuyi*), the negative cost of which is beginning to become apparent. The fact is that China's transformation is not purely about the rule of law or constitutional government. Some of the problems we face are rule-of-law problems; others are entirely political. We need political discourse and rule-of-law discourse to flourish at the same time, but at present rule-of-law discourse is drowning out political opinions expressed by intellectuals.

Treating political problems as legal matters has provided both opportunities and impediments for voicing political problems under the barrel of a gun. In the past, cynical intellectuals could either pursue pure scholarship or become politicized. Scholarship provided an ideal cover for the expression of political opinions. In the late 1990s, for example, intellectuals used the academic narrative of liberalism to make the most comprehensive and resolute argument for constitutional government since 1949. To protect themselves when confronting dictators, intellectuals resorted to a formula that was deemed legitimate: "I am discussing scholarship, not politics."

Today, the two available options are increasingly rule-of-law discourse and politicization, providing courageous or cynical intellectuals with a second formula: "I am discussing a legal issue, not a political one." When discussing highly sensitive issues, intellectuals in the rule-of-law camp can protect themselves by saying, "I am a professional, not a dissident." In fact, in recent years no group that dares to speak openly has enjoyed greater tolerance from the government than the rule-of-law camp. The reason for this is that once the regime started on the road of marketization to survive a crisis of political legitimacy, it was for a long time forced to support the ascendancy of rule-of-law discourse, just as it had previously been forced to support nationalist discourse. Today, the Chinese Communist regime's dependence on the rule-of-law camp is greater than its fear of any single elite group. Even if it brutally imprisoned 200 writers and poets, 200 journalists and editors and 200 private entrepreneurs, the Communist regime would not necessarily collapse. But crushing the rule-of-law camp would exact a cost the regime could not afford to pay.

European-style technocracy and logical-positivism are used as a protective shield by a section of the rule-of-law camp that seeks to promote institutional transformation during these dark times. But their approach also holds back the assimilation of political discourse by rule-of-law discourse. Unless political discourse can make itself heard amid the bellowing chorus of rule-of-law discourse, the rule-of-law camp might well become a conservative obstacle to China's future constitutional transformation.

Trying to gauge the future of the rule-of-law camp against this background is particularly difficult because of the role played by human rights lawyers, who are the rule-of-law camp's strongest and most extraordinary members. In recent years, a group of jurists and liberal intellectuals have formed the nucleus of the rule-of-law camp. Their powerful voice is the rule-of-law camp's greatest strength, and they greatly influence the group of up-and-coming human rights lawyers. But if the rule-of-law camp is to make the transition from the realm

Xu Zhiyong Profile

Xu Zhiyong received a Ph.D. in law from Peking University and teaches law in the Law and Humanities School of the Beijing University of Posts and Telecommunications. A key figure in the campaign to abolish the Chinese "custody and repatriation" system, Xu founded the Open Constitution Initiative, an independent center working to advance constitutional government in China. In 1994, he won an openly contested election for a seat in the Beijing People's Congress.

Xu was a defense attorney for the manager of the Southern Metropolitan Newspaper Group in a trumped-up corruption case. But he took on his greatest notoriety and personal peril as legal counsel for blind legal activist Chen Guangcheng. Xu was beaten and detained when attempting to visit Chen in October 1995, and in early August, 2006, when Xu went to Linyi City to provide Chen legal defense at trial, he was detained the night before the trial on accusations of pickpocketing. As a result, Chen went to trial with court-appointed local counsel.*

*See "Chinese Crackdown on Rights Lawyers Signals Effort to Deter Increasing Legal Challenges," *The New York Times*, August 19, 2006, <http://tinyurl.com/m9r9g>; <http://www.cecc.gov/pages/virtualAcad/index.phpd?showsingle=54315>.

of ideas to that of action, its nucleus will have to shift from jurist-intellectuals to human rights lawyers.

In my view, without human rights lawyers there is no rule-of-law camp. Although as a liberal in the rule-of-law camp I have taken some courageous stands in open debate, the people I admire most are China's human rights lawyers. Today, their courage is greater than any writer's.

Over the past year, human rights lawyers in mainland China have come under heavy attack. Zheng Enchong and Zhu Jiuhe are in prison, Guo Guoting has been forced into exile and Li Jianqiang has had his license to practice law confiscated. Other lawyers, including Gao Zhisheng, Zhang Xingshui, Mo Shao-ping, Pu Zhiqiang and Zhou Litai, have come under intense pressure. Whether human rights law will continue to expand and become a rational anchor for China's future democratization will depend on whether human rights lawyers win the full support of the rule-of-law camp. Likewise, whether the rule-of-law camp becomes a conservative social force will ultimately hinge on its attitude toward human rights lawyers. The only right choice for intellectuals in the rule-of-law camp is to do everything in their power to help, support, beat the drum for and even play second fiddle to human rights lawyers.

Xu Zhiyong is a pioneer in this area, in that he was the first academic intellectual to make the transition from academia to hands-on human rights law. The recent trial of the Christian pastor Cai Zhuohua for printing Bibles and distributing religious literature was an important collective test for rule-of-law

camp intellectuals.¹⁵ At a time when China's human rights lawyers had hit rock bottom, several young intellectuals from the rule-of-law camp, including Xu Zhiyong, Teng Biao, Fan Yafeng, Chen Yongmiao and myself, acted as "citizen representatives" (*gongmin daili*) and worked together with human rights lawyers Gao Zhisheng, Zhang Xingshui and Jin Xiaoguang to form the strongest defense team in a political case in the history of China. The prospects of human rights law in mainland China over the next several years will depend on whether this approach can be replicated and whether it will win over more intellectuals from the rule-of-law camp.

Quite apart from political cases, the field of constitutional and administrative law also includes a good number of courageous scholars who involved themselves in administrative lawsuits to establish institutional restraints on executive and administrative power. Since few lawyers are willing to represent citizens who sue the authorities, these scholars are the main force behind the expansion of administrative lawsuits. The constitutional law scholar Zhou Wei, the economic law scholar Yu Meisun and the administrative law scholars Ma Huaide and Lin Lihong have all played key roles in a series of lawsuits brought by ordinary citizens against government officials.

Unfortunately, most scholars of jurisprudence and criminal law invoke "scholarship" to gloss over their own cynicism, or postmodernism to cover up their interpretative and capitulationist legal scholarship. Complacent amidst their academic positions, good salaries and the prestige that comes from their minor involvement in the legislative process, they show no interest in the rule-of-law ideal and China's future transformation to constitutional government. They are the most conservative and ignoble members of the rule-of-law camp.

This essay is dedicated to Zhang Sizhi, a pioneer of human rights law in China.

Translated by Paul Frank

TRANSLATOR'S AND EDITOR'S NOTES

1. Guo Guoting has defended many political activists, journalists and rights defenders, including Zheng Enchong. His law license was suspended in March 2005, and he went to live in Canada in mid-2005. Li Jianqiang has represented many high-profile free speech cases, including those of Du Daobin, Liu Di, Luo Yongzhong, Yang Tianshui and Li Yuanlong. His law license was revoked in November 2003, but eventually reinstated after many appeals.
2. Article 306 outlaws the manipulation or destruction of evidence by lawyers in the course of defending a client in a criminal case. See Tom Kellog, "A Case for the Defense," *China Rights Forum* 31, No. 2 (2003), <www.hrichina.org/public/contents/8671>.
3. Writing in the *New York Times/International Herald Tribune*, Joseph Kahn describes Zhang Sizhi as "a dean of defense lawyers who has accepted dozens of long-shot cases he views as advancing the law." See *International Herald Tribune*, "Lawyer Takes on China's 'Unwinnable' Cases," December 12, 2005, <www.iht.com/articles/2005/12/12/news/legal.php>.
4. See Liu Wenyuan et al, ed., *Lüshi Weiquan Anlixuan* (A Selection of Cases of Lawyers Protecting Rights), Jilin Renmin Chubanshe, August 2003. For a

summary of cases described in this book, see "In Custody: Lawyers in Detention," *China Rights Forum*, No. 2 (2005): 100-105.

5. For more on Wang Yibin, see Wei Wenbiao, "Jiandu falü jiandu jiguan (Monitoring the Law, Monitoring Organs)," *Legal Daily Online*, http://www.legaldaily.com.cn/gb/content/2001-07/29/content_21636.htm.
6. The terms *weiquan* (rights defense) and *weiquan lüshi* (rights defense lawyer) are gaining increasing acceptance in China. *Weiquan lüshi* could be translated more idiomatically but less accurately as "human rights lawyer" or "civil rights lawyer." See Chen Li, "Think National, Blame Local: Central-Provincial Dynamics in the Hu Era," *China Leadership Monitor*, No. 17, Winter 2006, <media.hoover.org/documents/clm17_lc.pdf>; Ji Shuoming and Wang Jianming, "Zhongguo weiquan lüshi fazhi xianfeng" (China's Rights Defense Lawyers: Vanguard of the Rule of Law), *Yazhou Zhoukan*, December 19, 2005.
7. Article 105 of the Criminal Law of the PRC. See <www.colaw.cn/find-law/crime/criminallaw2.html>.
8. According to the ACLA, "All lawyers of the People's Republic of China are members of ACLA and the local lawyers associations are group members of ACLA. At present, ACLA has 31 group members, which are lawyers associations of provinces, autonomous regions and municipalities and nearly 110,000 individual members." See <<http://www3.acla.org.cn/html/union/englishunion/briefintroduction.html>>. The situation for lawyers is similar to that of ordinary laborers, who are not allowed to establish unions outside of the All China Federation of Trade Unions.
9. For more on this case, see Xiao Zhiyong and Liu Yatao, "Nianshen zhuce fei yu fa wu ju, lüshi jufu (Annual Registration Fee Unlawful, Lawyers Refuse to Pay)," *People's Daily Online*, March 13, 2003, <http://www.people.com.cn/GB/shehui/46/20030313/942930.html>; and Tang Yuanzhu, "Ganxie fazhi - wei Li Subin, Li Wusi lüshi yi shen shengsu yizuo (Thanks to Rule of Law - on the Successful Lawsuit by Li Subin and Li Wusi)," *ACLA.org.cn*, <http://www.chineselawyer.com.cn/pages/2003-1-12/p973.html>.
10. Lawyers are required to register under Article 170 of the Law of the People's Republic of China on Lawyers, adopted by the Standing Committee of the Eighth National People's Congress on May 15, 1996. See <<http://www.5izy.cn/legal/?q=book/print/19>>.
11. A more literal translation of *zhengfa xi* would be "government-by-rule-of-law camp" or "juridico-political camp." For the sake of simplicity, *zhengfa xi* is translated here as "rule-of-law camp." For more on Fan Yafeng's ideas, see Fan Yafeng, "Zhengfaxi yu shehui hexie (The Rule-of-law Camp and Harmonious Society)," *Gongfa.com*, <http://www.gongfa.com/fanyfshehuihexie.htm>, and Ji Zhe, "Confucius, les libéraux et le Parti: Le renouveau du confucianisme politique," *La Vie Des Idées*, May 2002, <http://www.repid.com/article.php?id_article=352>.
12. He Weifang is a professor of law and graduate student advisor at Peking University Law School. He is known as a leading advocate of legal reform and judicial independence.
13. Literally, "human affairs" (*renshi*).
14. On May 18, 1989, two weeks before the Tiananmen Massacre, Premier Li Peng held a televised meeting with representatives of striking students, including Peking University student Wang Dan.
15. On November 8, 2005, the Beijing People's Intermediate Court sentenced Cai Zhuohua to three years in prison for illegally printing and distributing Bibles and other religious books. Cai's wife, Xiao Yunfei, and her brother, Xiao Gaowen, were also convicted in the case and received two-year and 18-month prison sentences, respectively. See "Protestant Pastor in China Convicted for Printing, Distributing Bibles," *Washington Post*, November 9, 2005, <<http://www.washingtonpost.com/wp-dyn/content/article/2005/11/08/AR2005110800607.html>>.