Research Motivation

This survey is a follow-up to an earlier survey Ethan Michelson conducted in 2000. In 2000 he found that Chinese lawyers were highly vulnerable. Three main sources of vulnerability were: (1) local state actors (administrative interference and obstructionism), (2) their clients (who often refused to pay legal fees), and (2) their own law firms (which provided low levels of support). For more information on Michelson's earlier survey research, please refer to the following articles:


Critics responded to Michelson's findings by suggesting they reflected "growing pains" that have weakened in the wake of new laws on the books and ongoing procedural reforms. Because our new survey includes the same core questions Michelson asked nine years earlier, we are able to assess the extent to which Chinese lawyers’ vulnerabilities have weakened over time. Our preliminary findings show that Chinese lawyers' vulnerabilities have not weakened, but have remained remarkably stable, and in some respects have even intensified.

Survey Procedures and Data Characteristics

Sampling

2,335 individuals responded to our email survey invitations. We collected email addresses from all the profiles of registered users to four popular electronic messages boards frequented by Chinese lawyers (see Table 1). Registered users on these four websites represent our sample universe. After eliminating redundant email addresses, and after identifying and consolidating multiple email addresses of unique users, our email database contained email addresses of 17,276 users. We sent out survey invitations and administered the survey on SurveyMonkey.com (using its alternate URL, Surveymk.com). Each survey invitation contained a unique hyperlink to the survey. We were thus able to track respondents, to limit the survey to people we targeted, and to prevent people from submitting multiple questionnaires. Because registered users on the four websites from which we collected email addresses also include non-lawyers, our sample includes other
actors in the legal complex, including judges, prosecutors, and law school students and faculty, as well as a few hundred spectators who work outside the law and who thus do not belong to the legal complex. We launched the survey on July 3, 2009, and we closed it on October 4, 2009. The distribution of respondents across the four websites is presented in Table 1.

**Table 1. Websites from Which Survey Respondents Were Recruited**

<table>
<thead>
<tr>
<th>Websites from Which Respondents Were Recruited</th>
<th>non-lawyers</th>
<th>lawyers</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>中国律师网 (forum.acla.org.cn)</td>
<td>41%</td>
<td>41%</td>
<td>41%</td>
</tr>
<tr>
<td>大律师网 (<a href="http://www.chinalawyer.org.cn">www.chinalawyer.org.cn</a>)</td>
<td>49%</td>
<td>22%</td>
<td>34%</td>
</tr>
<tr>
<td>法律168 (<a href="http://www.fl168.com">www.fl168.com</a>)</td>
<td>9%</td>
<td>31%</td>
<td>21%</td>
</tr>
<tr>
<td>law-lib (<a href="http://www.law-lib.com">www.law-lib.com</a>)</td>
<td>2%</td>
<td>6%</td>
<td>4%</td>
</tr>
<tr>
<td>TOTAL</td>
<td>101%</td>
<td>100%</td>
<td>100%</td>
</tr>
<tr>
<td>N</td>
<td>1,049</td>
<td>1,286</td>
<td>2,335</td>
</tr>
</tbody>
</table>

Because many email addresses were invalid, we estimate our response rate to be at least 16%, and probably considerably higher. We cannot estimate our response rate with certainty because we cannot determine the number of email addresses that were invalid.

**Geographical Scope**

Our sample includes lawyers in every province, autonomous region, and centrally-administered city. Lawyers reported themselves to be in 194 cities; respondents of every stripe (lawyers and non-lawyers) reported themselves in 244 cities. Figure 1 displays the locations of lawyer respondents.
Representativeness

The geographical distribution of the 1,019 full-time lawyers who supplied geographical information is almost perfectly correlated \( (R=.92) \) with the geographical distribution of the 114,253 full-time lawyers in the true population in 2005 (see Figure 2). Likewise, the proportion of lawyers who are Chinese Communist Party members in our sample (27.5\%) is practically identical to the proportion in the true population (27.3\%). However, our sample of lawyers appears to underrepresent women. Whereas the true population of lawyers was 15.8\% female in 2005, our sample of lawyers is only 11.3\% female.
Findings

This report focuses on lawyers’ vulnerabilities. Our three goals in this report are: (1) to identify sources of vulnerability, (2) to assess their prevalence, and (3) to assess the extent to which their prevalence has changed since Michelson's first survey in 2000. Elsewhere we will report on other issues, including political values, gender inequality, and geographical mobility in the Chinese legal profession.

Vulnerability from Administrative Interference/Obstructionism

Many lawyers in our 2009 survey lamented their weak status vis-a-vis other members of the legal system, most notably in the public security, procuracy, and courts—lumped together in common parlance as the *gongjianfa*.

- "Lawyers can't even protect their own rights and interests. In comparing the purity of lawyers with the purity of members of the *gongjianfa*, lawyers are far purer. However, lawyers' status is far lower." (July 7, 2009, male, Heilongjiang)
- "Members of the *gongjianfa* discriminate against lawyers. There exists real prejudice." (August 3, 2009, male, Guizhou)
"Lawyers, especially those in the criminal justice system, enjoy no guarantees. In short, the role of lawyers is not great." (July 9, 2009, male, Beijing)

The survey questionnaire includes questions about the prevalence of various conditions in China’s legal environment. We can see in Figure 3 that lawyers assessed problems in criminal defense practice as highly prevalent in both 2000 and 2009. Indeed, there is no obvious difference in the prevalence of these problems in 2000 and 2009. We can also see in Figure 3 that, in both surveys, cooperation from individuals and civil organizations is more prevalent than cooperation from government agencies.

Figure 3. Lawyers’ Assessments of the Prevalence of Various Circumstances in the Legal Environment

Figure 3 also shows that, in both surveys, lawyers rated their ability to bring their functions into full play as the most "rare" of all situations. Moreover, as we can see in Figure 4, lawyers’ assessments of the prevalence of this situation remained remarkably stable over time. Assessments in 2000 and 2009 are statistically indistinguishable.
Survey results also show the prevalence and importance of *guanxi*. Lawyers not only invest a lot of time and energy in building and maintaining relationships with judges, but these relationships are of great consequence. Figure 5 shows not only the prevalence of such practices, but also that they have become increasingly prevalent over time. The proportion of lawyers indicating that spending a lot of time fostering personal relationships with judges is "very prevalent" increased from 25% in 2000 to 32% in 2009. Differences are statistically significant ($\chi^2=16.0$, $p=.007$).
Figure 6 shows the extent to which lawyers believe quality of their relations with judges affects court outcomes. In both years, 20% of lawyers said it was "very rare" for such relations to have no influence on how a court case is tried. Moreover, the perceived importance of lawyer-judge relations was almost perfectly stable between 2000 and 2009; differences between the two years are not statistically significant ($\chi^2=7.7, p=.171$).
Cooperation from government agencies in the process of collecting evidence—or at least the perceived prevalence of such cooperation—appears to have diminished over time. The proportion of lawyers indicating that such cooperation was "very rare" increased from 16% in 2000 to 26% in 2009; differences between the two years are statistically significant ($\chi^2=58.8, p<.001$) (see Figure 7).
Likewise, the perceived prevalence among lawyers of the prosecution's advantages over the defense in the criminal process appears to have grown markedly over time. The proportion of lawyers assessing this situation as "very prevalent" increased from 33% in 2000 to 44% in 2009; differences between the two years are statistically significant ($\chi^2=40.7, p<.001$) (see Figure 8).
Whereas the above are general assessments of situations without specific reference to concrete experiences, the 2009 survey includes new questions about lawyers’ individual experiences with administrative interference/obstructionism. We asked lawyers to indicate whether or not in the previous 12 months, "in the process of carrying out your legal work, any of the following organizations obstructed your work or failed to provide reasonable and lawful cooperation in other ways?" Respondents could select multiple organizations. Figure 9 shows that the proportion of lawyers reporting such an experience with a public security (police) unit, an "other" government agency (not listed on the questionnaire), a court, a procuracy (a state prosecutor's office), and a bureau of justice or lawyers' association was 57%, 44%, 44%, 31%, and 19% respectively.
Figure 9. Prevalence of Actual Experiences with Administrative Interference/Obstructionism: Specific Sources, 2009

Figure 10 shows that the vast majority of lawyers (77.2%) reported an encounter with at least one type of government agency, and that 20% reported experiences with 4 or 5 different types of government agencies.
Vulnerability from Clients
Lawyers are fairly selective about the cases they choose to accept. On average they accept only 58% of "all potential cases that come to you". Of all lawyers in the 2009 sample, 35% reported accepting no more than 50% of potential cases (Figure 11).
An important—if not the most important—reason why lawyers are so selective is that many clients refuse to pay their lawyers. Many lawyers experience difficulty collecting their fees from clients. This difficulty stems from the absence of fee shifting and generally weak judicial enforcement. Because courts are not involved in the execution of lawyer-client fee agreements (unless lawyers sue their clients), lawyers generally depend on the honesty of their clients. The 2000 survey questionnaire asked about the importance a variety of factors "for either refusing or not pursuing a case that you could have undertaken." In 2009 we added an additional factor omitted from Michelson's original 2000 survey: "the probability that a client will refuse to pay your legal fee." This is the most important of all factors included on the questionnaire (Figure 12).
Only 18% of lawyers said they were not owed any fees from clients. Meanwhile, 27% of lawyers reported client arrears of at least ¥50,000, and 15% reported client arrears of at least ¥100,000 (Figure 13).
**Vulnerability from Law Firms**

The above problems are exacerbated by the character of law firm organization. More often than not, lawyers are forced to face challenges from administrative agencies and clients on their own, without the help and support of their law firms.

"Law firms are merely a name. They provide no support. Law firms do not intervene on behalf of their lawyers. Lawyers do everything on their own. They do not form teams. There is no cooperation." (July 16, 2009, male, Shandong)

Although, generally speaking, they are required to be members of law firms, most lawyers operate like solo practitioners, carrying out their day-to-day practice independently of their firms. Most lawyers pay significant fees to their firms, and yet receive little in return.
The prevalence of de facto solo practice is also reflected in how lawyers get paid. Figure 15 shows that, in 2000, two-thirds of lawyers were paid purely according to the billings they generated. Relatively few lawyers were paid a fixed salary (9%), and virtually no lawyers were paid hourly (0.3%).
On our 2009 survey questionnaire we changed the categories of compensation method to reflect more faithfully the realities of Chinese legal practice. In 2009, 54% of lawyers reported getting paid "mainly commission" (Figure 16). We can also see in Figure 16 that relatively few lawyers were paid a fixed salary in 2009 (6%).
As we can see in Figure 17, most lawyers getting paid primarily on a commission basis keep between 60% and 80% of their billings, and are required to give the rest to their firms.
Among the 9% of lawyers who pay a fixed annual fee to their firms, most pay between ¥5,000 and ¥10,000 (Figure 18).
Lawyers in the 2009 sample who reported working entirely independently of their firms paid, on average, ¥130,000 to their firms over the previous year. Perhaps we should not be surprised, therefore, that the vast majority of lawyers who reported working entirely independently of their firms (71%) answered yes to the following question: "Since you practice independently anyway, do you hope or plan in the future to take advantage of the provision in the revised Law on Lawyers to establish an individually-owned firm?" (See Figure 19.)
Despite a widespread inclination to establish independent firms, only 2 lawyers in the 2009 sample (0.2%) identified themselves as bona fide solo practitioners (i.e., being the only lawyer in an individually-owned law firm). An additional 59 lawyers (5%) identified themselves as working in individually-owned law firms containing other lawyers. Although lawyers are formally permitted to establish and register their own individually-owned law firms, in practice this right is rarely realized.

"From the standpoint of law firm organization, at the moment the biggest problem in China is resolving the problem of solo practice. The new Law on Lawyers has been in effect for exactly one year. However, the vast majority of local justice bureaus do not approve the establishment of individually-owned law firms." (July 28, 2009, male, Liaoning)

In addition to their generally weak support for lawyers in their day-to-day legal practice, law firms also generally provide little in the way of social security benefits. Figure 20 shows that, in both 2000 and 2009, lawyers' biggest complaint about their law firms was "social security benefits supplied by my firm." Complaints about law firm perks and benefits were far greater than complaints about the next most common source of dissatisfaction. Given that most lawyers work independently of their firms and are paid on a commission basis, we should not be surprised that lawyers also complained about their chances for advancement.
and their salaries. Despite these complaints, lawyers were relatively upbeat about their law firm supervisors, the prestige of their firms, and their colleagues.

**Figure 20. Lawyer Satisfaction with Various Aspects of Legal Practice**

Figure 21 shows that the proportion of lawyers who were "very dissatisfied" with the social security benefits they received from their firms almost doubled between 2000 and 2009 from 17% to 31%.
"Currently the vast majority of Chinese law firms are fake partnerships. Lawyers are all soldiers in war. Law firms only collect fees and do not shoulder any labor remuneration. They especially fail to provide any form of social insurance." (July 28, 2009, male, Liaoning)

The consequences of weak law firm support on lawyer careers are grave. Many lawyers regret their choice of career. More than one-quarter of lawyers in the 2009 sample said that, if they had it all to do over again, they would not choose to become a lawyer. Likewise, almost one-fifth of lawyers said they wanted to leave their current job within five years (Figure 22).
The character of law firm organization is an important reason why lawyers regret their decision to become lawyer. Lawyers who both worked entirely independently of their firms and were "very dissatisfied" with firm perks and benefits were 78% more likely than other lawyers to regret choosing to become a lawyer (Figure 23).

**Figure 23. Effect of Independence from Law Firm on Disappointment with Choice to Become a Lawyer, 2009**

*Figure 22. Two Measures of Disappointment with Choice to Become a Lawyer, 2009*
Likewise, lawyers who both worked entirely independently of their firms and were "very dissatisfied" with firm perks and benefits were 50% more likely than other lawyers to hope to exit the bar within five years (Figure 24).

**Figure 24. Effect of Independence from Law Firm on Plan to Exit Legal Practice, 2009**

Summary and Conclusions

On the whole, Chinese lawyers are highly insecure. Both the extent of their insecurity and the sources of their insecurity persisted with remarkable resilience between 2000 and 2009. Despite new laws on the books and ongoing procedural reforms over this nine-year period, lawyers' vulnerabilities vis-a-vis administrative agencies and vis-a-vis their law firms appear to have intensified in some respects.

The three sources of vulnerability we have described in this report compromise popular access to justice. First, administrative interference/obstructionism creates disincentives for lawyers to accept cases that necessitate encounters with, require the cooperation of, or challenge the interests of administrative agencies. Such disincentives are particularly palpable in the field of criminal defense. Second, difficulties collecting fees from clients creates disincentives for lawyers to represent certain kinds of people with certain kinds of legal needs. A considerable proportion of lawyers (16%) said that "difficulty collecting fees from clients" was a "very prevalent" situation. An additional 17% of lawyers chose the next most "prevalent" category, meaning one-third (16%+17%=34%) of lawyers identified fee-collection as a prevalent problem (Figure 25). Consequently, many lawyers are highly selective about the kinds of clients they choose to represent. When deciding whether or not to represent a client, lawyers' most important consideration is the likelihood the client will uphold the fee agreement. Many ordinary people with legal needs who somehow strike lawyers as untrustworthy are therefore refused legal representation. Third, lawyers typically
face these sources of vulnerability alone, without the help and support of their firms. They give a lot to their firms and get very little back in return. Many law firms exploit the labor of their member lawyers by extracting annual fees and by taking cuts of their billings without giving back much of anything. If law firms provided more support to their lawyers by strengthening their socioeconomic security and by doing more to help find and manage clients, lawyers would likely be willing to accept more cases they currently deem too risky.

**Figure 25. Distribution of Lawyers' Assessments of Additional Circumstances in the Legal Environment, 2009**

![Bar chart showing distribution of lawyers' assessments of additional circumstances](chart)

It should come as no surprise, then, that many lawyers find it hard to survive in the bar. More than half of lawyers in the 2009 sample reported that intense competition between lawyers was "very prevalent." At the same time, more than 20% characterized the situation of lawyers struggling to get by as "very prevalent" (Figure 25). The most insecure lawyers are the most inclined to exit the bar. Many lawyers ultimately abandon legal practice.

- "Attrition rates in the legal profession are rather high...In China's legal profession, entry barriers are low and obstacles in practice are high. I've heard that 90% of new lawyers disappear through competitive elimination." (August 3, 2009, male, Guizhou)
- "I believe it is essential to investigate why young lawyers have trouble surviving. This is an important reason for the enduring brain drain in the legal profession." (July 9, 2009, female, Chongqing)

Lawyers' vulnerabilities stymie their ability to defend zealously members of vulnerable populations. Almost one-quarter (24%) of lawyers in the 2009 sample said the following situation was "very prevalent": "Because lawyers don't receive work and life protections, it's difficult for them to protect the rights and interests of ordinary people." An additional 18% of lawyers chose the next most "prevalent" category, meaning 42% assessed this situation as at least "prevalent" (Figure 25). In conclusion, helping to resolve lawyers' vulnerabilities will help to enhance popular access to justice by weakening disincentives preventing lawyers...
from representing vulnerable people with legal needs. Helping lawyers is one of the most effective ways to help ordinary people.